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VOLUME 2.

IN THE SUPERIOR COURT,

State of California, County of Sacramento.

OCTOBER SESSION, 1881.

HON. JACKSON TEMPLE, - - - - - PRESIDING JUDGE.

WINFIELD J. DAVIS, OFFICIAL REPORTER.

SAMUEL OSBOURNE AND WILLIAM M. CUTTER, REPORTERS.

The People of the State of California, }
 vs.
The Gold Run Ditch and Mining Co. }

COUNSEL:

For Plaintiff,

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For Defendant,

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DIBBLE, A. P. CATLIN.

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Winfield Davis
Official Reporter
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In the Superior Court of the
State of California in and for
the County of Sacramento

The People of the State of California	}	Third day
vs.		Thursday
The Gold Run Ditch and Mining Company		November 17. 1881

Testimony
of
Wadsworth Hodgden

Recalled for further examination

Mr Cadwalader. I would state
that- Captain Hodgden this morning
stated to me that he desired
to make an explanation
The Court. Did you wish to
make any explanation?

A- Well the question was asked
me yesterday if it was possible
for any large vessel to come
up at the same season
of the year that I did in

my vessel.

The Court. That is in March?

A. I don't remember ~~it~~ how I answered it but that was not a fair test, not a fair sample of the case, because my vessel was not near as large as some vessels that came up later in the season at the low stage of the water.

I came up at the high stage. I don't know but what vessels might come up now at the high stage of water last March if the river was up twenty seven feet nearly.

Mr. Hart, 2. What time in the season was it that these larger vessels came up?

A. In July. I came up in March

2. Was the river then at high or low water mark

A. Nearly at low water

2. You mentioned something about some vessels being moved up in the American

river, did you not, or did you mention about that?

A. Tied to the bank, yes sir.

Q. How far up the American River were those?

A. About opposite Fourth Street.

Q. Following the meanderings of the river how far off would that be as the river then was.

A. It would be about 1600 feet I should think, about four blocks.

Q. What time of the year was that, what time of the season?

A. Why, they laid there, some of them laid there for six or eight months after I came, laid there still the next winter.

Q. Did they come up in the summer?

A. I don't remember that they were here when I came.

Q. Were they large or small vessels?

A. Well, some of them were vessels of three hundred tons or upwards, seagoing vessels

Q. Do you know whether or not, at that time, that is when you first came here, the tide ebbed and flowed in the American river at that place?

A. I know ^{that} it ebbed and flowed in the Sacramento as high up as that, it must have ebbed and flowed in the American river at its mouth

Q. Did you know from seeing the water at its ebbing and flowing in the American river?

A. No, I never noticed that particularly

Q. At this place where these ships were moored what is the condition of the bed of the river there now?

A. There is no bed to the river. Where the old river was the sand is about

as high as the natural banks
on each side, perhaps higher.

Cross-Examination of Wadsworth Hodgden

Mr. Catlin. Q. Captain, how old
are you?

A. Sixty six years old.

Q. You have always resided
opposite the city here in the
town of Washington ever since
you came here?

A. Pretty much, yes sir.

Q. Have you ever been
up the American river

A. Oh yes.

Q. How far up?

A. I do not remember, I
mined up about twenty five
miles. I mined for two years
on the American river

Q. At what place?

A. It was called Massa-
chusetts Bar at that time. I
don't know what it is called now.

and at Folsom also.

Q. On the north fork of the American river Massachusetts Bar is on the north fork of the American?

A. I think it is on the middle fork.

Q. You don't know which fork it was on?

A. No, I don't know certainly. I supposed it was on the middle fork. It is just above Folsom about ten miles.

Q. You didn't go there by going up the river, you went in ~~by~~ the ordinary way by traveled roads that people used to travel in those days to go to the mines?

A. Yes

Q. But have you been up the American River itself, up the stream any distance?

A. No, not up the stream.

Q. Only a few hundred yards above the mouth here where this deep water was at the

mouth that you speak of?

A. Yes sir.

Q. You are ~~an~~ not acquainted then with the banks of the American River, the immediate banks of the American river at all, are you above the neighborhood of the mouth?

A. Of late years I have not been there. I don't know what they are like now.

Q. When have you been there?

A. I suppose it was twenty years ago that I was there last.

Q. What part of the immediate banks of the American river were you then?

A. Well, I crossed it at Lyle's Bridge. I have crossed it at Folsom.

Q. Is Lyle's Bridge within the city?

A. It is about a mile I should think from the mouth.

Q. And the Folsom bridge is twenty five miles or twenty two?

A. I should think so.

Q. But as for being up and down the river you never was up and down the river between here and Folsom to go on the banks of the river except to cross it at the two places mentioned?

A. Yes. I think the road ran near the bank of the river in early days.

Q. Whereabouts?

A. Between here and in places the road ran to the bank of the river between here and Folsom.

Q. It strikes the American river about ten miles from here at one point and then comes near to it again about twenty miles.

A. Yes I think so.

Q. But you kept the main highway, the usually traveled road that the stages and freight teams travelled in going from here to Placerville or to Colusa?

A. Yes.

Q- When you came up the river in the brig Hodgden in March 1870, did you meet any vessels going down?

A. I don't remember, I don't think I did.

Q- When you arrived here in March 1850, where did you tie your vessel? On this side or the other side?

A- On this side

Q- Did you subsequently remove it to the other side?

A- Yes.

Q- What became of the Hodgden afterwards?

A- I don't know, I sold her; she was sold in 1852 or '53.

Q- Where did she go to?

A- Sailed and went away I don't know what became of her

Q. Went down the river

A. Yes.

Q. How many vessels were there here at that time of about the general character and size of the Hodgden?

A. I should think there was nearly three hundred pair of seagoing vessels between the American river that I spoke of four blocks above the mouth and the foot of R. Street

Q. Three hundred?

A. I should think so.

Q. How many were there in the bay of San Francisco at that time? A. Not near as many when I came up.

Q. Were there more vessels here than there were in the bay of San Francisco?

A. A great many more, yes sir.

Q. Are you certain of that?

A. I am certain of that as I am of anything

Q. Do you swear positively that there was as many as

fifty ships, brigs and schooners here at that time?

Q- I swear positively that there was more than two hundred at that time, tied up to the bank of the Sacramento river

Q- I mean here all at one time?

A- At one time when I came and for two months afterwards

Q- Where were they laying? Where were those three hundred vessels laying?

A- Well they commenced opposite 4th street on the American river, they were laying head and stem as near as they could lay.

Q- How many were laying in the mouth of the American river?

A- I don't know.

Q- Well about how many

A- Well perhaps fifty

Q- Fifty in the mouth of the American river?

A- Perhaps so, I didn't count them, I only judged from looking at them.

Q- I know that. I am speaking of round numbers I think you are too? A- Yes

Q And the remainder of them were laying down in front of the city here?

A Between the American street and R. Street.

Q Can you name some of those vessels

A Well no I don't remember the names.

Q Do you remember the names of any of them? A Yes, I remember the name of one that laid in the American river, a bark

Q What was her name?

A The "Annie Reynolds".

Q What? A The bark "Annie Reynolds".

Q Well, what other?

A I don't remember any other, the name

Q That is the only one whose name you can remember besides the Hodgden? A That is the only one I can think of at present.

Q Do you remember the La "Grange"?

A The "La Grange" was a prison

brig wasn't she?

Q Yes. A I remember her, yes.

Q Do you remember the 'Globe'?

A I do, yes sir.

Q The 'Eliza'? A I think I do.

Q The 'Bolton'? A The what?

Q The Bolton, the bark Bolton.

A I don't remember.

Q You are quite certain then that there was between two and three hundred of that class of vessels? A I am.

Q What was the registered tonnage of Hodgden?

A She was over two hundred tons, I don't remember the number.

Q Were you the owner? You were the owner, I suppose?

A I was the principal owner.

Q You don't remember her custom house register? A No, I don't.

Q Wasn't it under two hundred? A The registered tonnage I don't remember. She carries about two hundred

and fifty-

Q-(Interrupting) But the registered tonnage I am inquiring about, to see if you can ~~register~~ remember that? A- No, I don't remember

Q Did you go into any port on the way around? A- Yes.

Q You had to pay port duties on your registered tonnage, don't A you remember what it was?

A- I certainly do not. I touched at some point in South America, I forget where it was, I forget the name, I had to pay some port duties. I don't remember what they were.

Q You don't remember what your registered tonnage was

A- I do not.

Q Do you know what the depth of the Sacramento river is in the channel, the navigable portion of the Sacramento river?

A- What, now?

Q During the last ten years?

A- The last ten years

Q Do you know what its depth is? A I should think it was about—

Q {Interrupting} No; Do you know? I am not asking you to guess. I want to know if you know.

A I never measured it

Q Did you ever see it measured by anybody?

A I think I have, yes frequently. I have seen steamboats going up and down and sounding with a pole, I should think there was between six and seven feet. I suppose they kept in the deepest water

Q You say steamers sounding with poles, at what points?

A Whay, between the bridge and K street. Between the Sacramento street and K. street

Q When they were in the vicinity of that bar? There is a bar puts out on the Yolo side isn't there now? There is a bar puts out into, the river on the Yolo side?

A Yes, the bed of the river

here filled up. at low stage now
it is out of water two
thirds of the way across.

2. The Channel is on the other
side, on the Sacramento side

A- I suppose it is

2. Do you know what the depth
of that is? A- Only what
I tell you that I have seen
boats in going through the bridge
I have seen them sounding with
a pole up to the bridge

2. Those up river steamers
which passed through
the bridge, you have seen them using
poles as they went through the bridge

A- No. I have seen them sound
to see where the deepest water
was with a pole

2. Do you know what the
tonnage of the steamers "Modoc"
and "Apache" is, that now are
navigating the river?

A- The tonnage?

2 Yes - A- I do not

2. Are you acquainted with
the "Modoc"?

A- I have seen her.

Q Have you ever traveled
on her?

A I don't remember

Q Do you know the Apache?

A I suppose I have seen
her, I don't know anything
particular

Q You don't know whether you
know her or not?

A I don't know.

~~Q~~



2. Do not the steamers ~~Modoc~~ and the steamer Apache, that are now navigating the river between here and San Francisco carry as much freight as the New World, Wilson Is. Hunt, Antelope, Confidence and that class of Steamers that ran here during the fifties

A. Carry as much freight?

2. Yes, A. I don't know but they did. They are different built boats though.

2. When was the last time that you went down the Sacramento river on a steamer.

A. I don't remember.

2. It is a good many years ago, isn't it? A. I don't remember the last time I went down.

2. Well isn't it as much as 15 or 16 years ago? A. No

2. Do you remember what steamer you went down on?

A. I do not.

2. Do you remember whether it was 12 years ago, or

16 years ago? A. Well it was shortly before the California Pacific Railroad was built between here and Vallejo.

Q- You have frequently gone to San Francisco since that time haven't you? A- Yes. Not frequently, but sometimes.

Q- Why didn't you go by steamer?

A- Because you could go quicker by rail.

Q- Isn't that the reason why the travel on the river both of freight and passengers has ceased to a great extent since the construction of the Railroads? A- I don't know.

Q- You don't know whether it has or not? A- I do not.

Q- You only know that that is the reason you went by rail because it was quicker and more convenient?

A- No I think there was a steamer running at the time I went, but the reason I went was because it would go quicker.

Q- Is it that the reason why the people generally take the railroad instead of the steamers?

A- Yes. I suppose it is.

Q- Isnt the freight to a very great extent also transported by railroad instead of steamers or river navigation?

A- No it hadnt ought to be. Freight could be transported much cheaper by rail vessels.

Q- I am asking you whether as a matter of fact a large portion of the freight is not transported by rail?

A- I expect so. I dont know.

Q- The truth is, that you personally know very little about the business on the river, isnt it? A- Well you might say so.

Q- For the last ten or twelve years? A- I dont know that I do.

Q- When you came up the river in 1850, did you come through old river or Steamboat slough? A- Steamboat slough.

Q. Can you tell me whether old river was navigable in 1849 and '50 and from thence up to 1860.?

A. Not from my own knowledge. I never went that way. I heard that vessels did go that way very frequently, Steamboats and Sail boats

Q. Was it generally understood that it was not navigable on account of the shoals?

A. I do not know that.

Q. You don't know it?

A. I don't know it.

Q. I asked you whether you did not know that do you know a good many things?

A. I told you I didn't know it

Q. Of your own knowledge

A. Of my own knowledge

Q. Why did you go through Steamboat Slough? Why did the Steamers and vessels go through Steamboat Slough generally?

A. Why did I go through do you ask?

Q. Well, so far as you know why did the early navigators here in the fifties, go through Steamboat slough instead of Old river? A. I don't know anything about anybody else except myself

Q. Well, then state your reason

A. The reason I went through I had a pilot who had charge of the vessel and he took her in that way. I supposed he knew better than I did.

Q. Did the pilot inform you that he could not get through old river? A. No, he did not

Q. The pilot was in command of course? A. Yes, he had charge

Q. The pilot always commands the vessel as soon as he strikes the deck, doesn't he?

A. Generally, yes

Q. Don't you know as a matter of fact - or I will ask you further; have you ever passed down the river in a Steamboat or other vessel through

What is called Old Sacramento river? A. I think not. I don't remember ever going that way.

2. Do you know where Haycocks Shoals are? A. Haycocks Shoals? No, I don't know where they are

2. Do you know where Hays Back is? A. I have heard of it — I think it is in the neighborhood of —

2. (Interrupting) Well don't you know where it is of your own knowledge? A. In the neighborhood of Carke slough

2. You have no knowledge of the shoals and shallows in the Sacramento river, of your own experience? A. No.

2. Between here and Fuisun Bay? You have none? A. No

2. You came up the river when it was at a high stage of water in March 1850?

A. Yes

2. And then you met with no obstruction, did you?

A. No.

Q. None at all? A. None at all that I know of. I didn't hear of any

Q. Did the pilot bring you all the way up here?

A. Yes

Q. And you didn't strike any bars? A. We didn't touch the bottom at all

Q. Well, the water was high then? A. The water was high I would state that my vessel was not a fair test

Q. Well, you have mentioned that. You mean she was not as large as some others?

A. Not so large as others that came up at low stages of water

Q. Well now, what vessel can you name that drew more water than yours? You drew 12 feet. When you were fully loaded you drew 13, and you had disposed of part of your load in San Francisco? A. Oh no, I drew more than twelve feet

Q. You said that she

would draw twelve feet when loaded?² A. No.

Q. Thirteen feet?²

A. No, I said, I discharged part of my cargo in San Francisco, and I think then as near as I can remember she was drawing about twelve feet when I came up here

Q. That is what I say, you drew twelve feet

A. Yes

Q. And thirteen feet when fully loaded?²

A. I think so

Q. That is what you stated?²

A. Well that is about the truth

Q. Now name any other vessel that had more draught than that?²

A. It is pretty hard to name vessels, but I know of a bark that came up in July or August of that year, 1850 she must have been over three hundred tons

Q. Well, do you know?² How

do you know it? Judging from her general appearance I suppose?

A. Yes, she laid right alongside my vessel in Washington for nearly a year. I think. She came up loaded with a general cargo. She must have drawn fourteen feet of water at least when she came up.

2. That you mentioned as your judgment of the matter from the general appearance of the vessel and the amount of cargo she had on board?

A. Well, my judgment at that time was pretty good in regard to ships, sea going ships. It ain't as good now. I am not so well acquainted

2. Now you stated that the water in front of the City here was about twenty-five feet deep?

A. No, I did not, I might though, it was from twenty two to twenty five all the way across

2. I am mistaken. You said twenty two feet, that is so

A. From bank to bank. From the bank on the Sacramento side to the Yolo side

2. And would of course float a vessel that drew twenty five feet of water? Could such a vessel come up the river, one that drew twenty five feet?

A. At the low stage?

2. Yes

A. Now, because there was some places that it was shallow probably.

2. As a matter of fact, right in the mouth of the American river coming out five or six hundred or eight or ten hundred feet or sixteen hundred feet, as the case may be, up the American river, and then down to Sacramento in front of the whole distance of the city here, down to R. street, the water was

much deeper than it was further down the river, was it not?

A. - I don't know that, I think not. There might have been some shoals in the river.

2. You think it was deeper even below than that, deeper than twenty - five feet?

A. In some places it was I think

2. Whereabouts?

A. I think it was in some places; some places it was shallower

2. Wasn't there a good many bars and shoals in the river, between here and Steamboat Slough? Well, between here and the mouth of the river between here and Cache Creek Slough?

A. In 1850?

2. Yes.

A. I never heard of but the one, that was the Stags / Bark that gave any trouble at all.

Q Did you hear of any that gave any trouble, did you ever hear of Haycock's shoals?

A Yes Sir; late years; ten or fifteen years afterwards; perhaps twenty years afterwards, I heard of trouble in regard to the Haycock shoals.

Q Where are they situated?

A I don't know.

Q They are below here?

A Below, yes.

Q Don't you remember that the Steamers, Antelope, Confidence, Wilson G. Hunt, New World, Senator, and other steamers of that kind, Chrysopolis, used to arrive very late, sometimes two hours, sometimes six, sometimes ten in consequence of being detained on shoals, sometimes on Haycock's shoals, sometimes on Hog's Back and sometimes on others.

A. My remembrance is that that was many years after 1850; perhaps 1860.

Q No, but I am speaking of those steamers?

A Well, in 1862 and '3, from that on up to 1867, there was a great deal of trouble in getting to Sacramento; well, say from 1863 to 1867 and up to the present time.

Q You say there were no detentions that you remember of prior to that time?

A I don't remember of any.

Q Except the Hog's Back. The Hog's Back always was a difficult place to get over?

A Oh, the Hog's Back was there in 1850. I don't know the depth of water on it at the lowest stage of the tide, but I know we had no trouble in coming past it or over it.

Q You have stated that the line showing the difference in color of the American river and the Sacramento river was very distinct, that they didn't thoroughly mix

till the water got below the town of Washington?

A That is at the low stage of the river.

Q Can you see that line standing on the railroad bridge, now?

A Not now: not today, you can't, I don't think.

Q Could you last week?

A Yes, you could before the rain.

Q Has this rain raised the river any?

A Yes.

Q How much?

A I don't know: perhaps a couple of feet.

Q A couple of feet?

A I should think so from the looks of the bars and shoals. I didn't examine it particularly. I know it has raised the river and muddied the water very much.

Q Well, it can't be seen now? At the present stage of the water you can't see that line?

A. I don't think it can, I didn't notice when I came over this morning, I didn't look, didn't think of it.

Q It is not visible in high water, then?

A No; no, I couldn't say that it was, I don't think it is.

Q Then there is a thorough commingling of the American and Sacramento above the bridge when the water is high, so mingles that the line of color cannot be distinguished?

A It is only at the low stage of the river when the water in the Sacramento is higher than the American.

Q When the Sacramento gets low it is not so muddy. Not so muddy as the American?

A The American being a little more muddy than the Sacramento, and the quantity of water being small comparatively that comes in you could see

the line

Q - Now the land that you own out of the city here how long have you owned that land?

A - What land?

Q - The land that you own opposite the City where you live, you said you had a couple of hundred acres of land there, didn't you?

A. Well, I have owned some of it perhaps twenty five years. Some of it, some little -

Q - (Intg) Did you locate it, did you take it up as Swamp Land?

A - Yes. I did

Q - Now was that land damaged at the same time that Mr. Hoaglands orchard and place was swept away by the force of the American and Sacramento rivers?

A - Damaged? No Sir

Q - You were not damaged there?

A - Not damaged at that time

any.

Q. Did you have a claim against the state; were you one of those ten or twelve parties who had claims against the levee Commissioners, was you one of them?

A. No sir.

Q. You had no claim against them?

A. No.

Q. That did not lodge any debris on your land. did it?

A. Yes.

Q. But you made no claim against the state - against the Commissioners?

A. I made no claim.

Q. You were flooded, I suppose, at that time?

A. Yes.

Q. But not damaged?

A. Not damaged very much.

Q. Not enough to make it an object to ask the Levee Commissioners to pay you as well as your neighbors?

A. I made no claim at that time.

Q. Just describe how far up

the northern end of your land goes, compared with the railroad bridge say, and the line where the railroad now runs?

A. Well, I own land above the railroad.

Q. Your land extends clear above that?

A. No, it don't extend, but I own two blocks in the town of Washington above the railroad.

Q. Yes, two blocks above the railroad, then when you get outside of the blocks, does your land extend up to or beyond north of the railroad?

A. Outside of the blocks below the railroad I have about one hundred feet.

Q. How far from the river does your line run?

A. Some of it runs a mile.

Q. Runs into the tide?

A. Yes.

Q. Is that land in the line of where the current of water ran at the time

of the break when Hoboken was destroyed?

A. Yes.

Q. The damage that you sustained was almost entirely last winter, was it not?

A. Yes. Damage by debris, sand.

Q. Now there was a break just above the bridge about one hundred and fifty yards, was there not last winter?

A. Yes.

Q. A very large one?

A. Yes.

Q. Cut down very deep and was several hundred yards in length?

A. Yes.

Q. Did the water coming through that break come on to your land?

A. It did

Q. On your orchard?

A. On my orchard. It came on land I owned in the back part of the town of Washington.

Q. Did it come on any portion of your orchard?

A. I don't know.

Q. Well the water came all over your orchard, didn't it?

A. Yes.

Q. And it made some deposits there, did it not?

A. Not much. There was a break, there was a large break at Mr Reed's place above me. I couldn't tell whether the water came from that break or from the break above the bridge. I think the most of it came from Mr Reed's place.

Q. Now the Reed break, the break in the fence opposite what you call Reed's place about what street in this city is that opposite to?

A. Well there were two or three breaks, there was one about opposite L Street or M perhaps; M Street, and the principal break was about opposite R Street I should think.

Q. Well, that carried

on the land debris in the nature of sand and sediment did it not?

A. On Mr Reed's land it left a great deal of this coarse sand.

Q. Did it leave any on yours? A. No.

Q. I understood you on the direct examination to say that your orchard was covered an average of two or three feet deep with debris.

A. No. I didn't say that I didn't intend to ^{at} any rate.

Mr Hart He didn't say that. He said some of his land was covered.

The witness Some of my land was injured I said

Mr Catlin I had a little difficulty yesterday in understanding him. I think I understand it now.

The witness I stated I had a very bad cold and he asked me and I can't speak very loud.

Q- Now how much debris has there been deposited on your orchard lodged by the floods of last winter? A- None to speak of perhaps there was two or three inches of what they call this fine silt.

Q- Well that has not injured you has it? A- That too on these riches you can plow it in.

Q- Where was this place where you said there were some deposits two or three feet deep? A- Well it commences on the line of the railroad at Fifth street in the town of Washington on the south side of the railroad. It covers perhaps twenty acres there of my land, from two to three feet deep.

Q- When was that deposited?

A- Last winter - last flood.

Q- Through what break did that come?

A- That came through the break above the bridge.

Q- The one about 150 yards above the bridge?

A- Yes sir I suppose.

it to be.

Q - It is right
all the line of where the water
would carry the material
is it not? This piece is right
in the line of where the
water naturally, the current
came.

A - Yes

Q - Now is that a uniform
deposit there, or is it in
rifts - said?

A - Well

I should think there was ten
acres in one place where it
is pretty uniform; near the
railroad the fence was nearly
covered. The posts, the top of
the posts were out of sight.

Q - That was low ground
there formerly, was it?

A - Well it is lower than the
bank of the river.

Q - How much lower than
the natural banks of the river?

A - I don't know but it is
land we could cultivate every
year generally.

Q - How?

A - It was
land that we cultivated gen-
erally. It was not tale land.

Q - But how much lower was

it than the back, the original banks of the river?

A - Ah I could not tell with out - perhaps a Surveyor could tell, but I could not, the land sloped.

Q - You say the Sacramento river ran on a ridge?

A - Yes

Q - You mean by that that its banks sloped off to the west and the east?

A - Slope off, yes, to the west

Q - And to what depth do they slope say when they come to the middle of the general tide strip?

A - Well

I should say there was a difference of 15 feet between the highest land on the river and the lowest land in the tide. That is my opinion

Q - Yes, That is your judgment as it originally was

A - Yes Sir

Q - Now you spoke something about the steamers not being able to get up above Q street, I will ask you whether the steamers haven't

regularly without difficulty, came to their usual landing place at the foot of K street during the last ten years? A- I think not I know they have not. Last ten years?

Q- How was it where they couldn't come? A- I was referring to that large class of steamers; the New World.

Q- How? A- When, I said that I referred to those large boats, the New World and Senator, and Hartford. Of course there is little steamers come up, drawing a foot of water, 18 inches, can come up now.

Q- Well, is it the Apache and the Modoc; that class of steamers that draws a foot of water? A- I don't know what they draw. I know they are light draught steamers built for that purpose.

Q- Have those steamers, and the steamers that have been used by the Steam Navigation Company during its existence, and by the

Central Pacific Railroad Co. during its existence been obstructed in arriving at the foot of K street any time within the last ten years; without giving the names of the steamers, those that they did use? A- I have not heard of any trouble with these small boats, flat boats built for the purpose. Of course they were built expressly to run in shallow water.

Q- I am getting at the fact, not the reasons for the fact. Have they been obstructed; such steamers as have been used by the different Navigation Companies during the last twelve years? Have they met with any obstruction in arriving at their usual landing place at the foot of K street? A- I don't remember that they have.

Q- Now isn't this river navigated regularly by steamers between here and San Francisco up to the present time?

A- Steamers of very tight draught

Yes.

Q - Then the navigation of that class of steamers is not ruined is it?

Mr. Hart - He never said the navigation -

Mr. Patton - He said twice that generally the navigation of the Sacramento was ruined. I want to see if he adheres to that statement as he made it.

A - Well, I meant for sea-going vessels, vessels that we term navigable vessels. Vessels that were competent to go to sea. These little barges and flat boats -

Q (Intg) Do those steamers run up the river generally?

A - There are light draughts do I suppose

Q - Have not the same class of steamers run from here up the Sacramento during the last ten or twelve years, that did run up the same river during the first years of our experience here?

A - Certainly not.

Q- Were not those steamers that ran up there flat bottomed steamers? A- Not half so large as the boats that ran up in early days.

Q- Steamers still continue to run up the Sacramento river but they are a small class of steamers, is what you mean?

A- Very small, with very light draught of water.

Q- Are these steamers that run there now any lighter draught than the old Governor Dana, that used to run up there?

A- The old Gov. Dana was a small boat and a light draught boat.

Q- She was one of the boats that used to navigate the upper Sacramento? A- Yes.

Q- During the fifties?

A- Yes.

Q- Do it the steamers of very much larger or of equal draught with the Gov. Dana, navigate it now above the bridge?

A- I suppose they do. I

think they do.

Q- Don't steamers run to Marysville now? A- I suppose they do; small boats

Q- Do you think a steamer has any more difficulty getting to Marysville now than it did in the fifties? A- I know so.

Q- How do you know it? A- Because they had to stop all the large boats than race, They were smaller boats

Q- The Governor Land was a small boat? A- Yes, she was a small boat

Q- She used to run to Marysville didn't she? A- They used to in 1850 they used to go up in skiffs; in row boats to Marysville, take freight up - they could do that now, I suppose

Q- Well, couldn't the Governor Land, if she was still on the river, go to Marysville?

A- She is still on the river

Q- Does she still run to Marysville? A- I expect so, I don't know.

Re Direct Examination

of
Wadsworth Hadgdon

By Mr Hart.

Q Do you know anything about a boat known as the Queen City?

A. I remember the Queen City, yes.

Q What kind of a boat was that?

A Oh, she was a large boat I don't know how many tons she was: perhaps she would carry three or four hundred tons burden.

Q What kind of a boat was it: what description?

A Well, she was what we would call a river boat.

Q Side wheeler, or stern wheeler?

A Queen City, I think she was side-wheel. I think so.

Q Do any such boats run up the Sacramento river as The Queen City now? A No.

Q Along any part of it?

A Do you mean below the City?

Q Yes. A. I have not seen any, even from San Francisco to Sacramento.

Q- How long since the Queen
city was taken off?

A- I don't remember

Q- Do you know why she was
taken off? A- I do not

Q- Would she run up the river
now? A- I think not

Q- What is the general difference
between the boats that navigate
the Sacramento river between San
Francisco and Sacramento since
1865 and those that navigated
the river before that time
between those points?

(Objected to as not proper
Re direct Examination)

Q- You were examined by
Mr. Cutler in relation to the
deposits upon your land; did
you ever notice the nature of
the soil out of which the levee
was constructed; that is, the
levee that broke and was
carried down?

(Question objected to on the
same ground. Objection over-
ruled)

Q- That was last winter

Q - What? A - That is, broke last winter?

Q - Yes. A - Yes, I know pretty near the nature of the soil of which those levees were constructed.

Q - What was its nature?

A - Mr Hogglands levee - The leacert - You mean this levee that was broken? A - Yes sir

Q - 13-0, that is above the bridge

A - Yes

Q - That particular levee?

A - Well Mr. Hogglands levee that broke last winter was constructed of black soil taken from the inside of the levee mostly, surface soil. This levee perhaps six or eight hundred feet of the lower end of the levee that broke immediately above the - right in front of the town of Washington, the upper part of the town of Washington that was constructed mostly of sediment taken from the bank of the river. It was not sand, but it was what

they would call slickens and sediment.

Mr Hart - Taken out of the river?

A - Taken from the bank - the sloping bank

Q - Was that slickens a part of the natural bank or some that had been brought down?

A - Some that had been brought down

Q - Do you know anything about the nature of the soil that was washed out of the banks there; natural banks? You say it washed out portions of the natural banks.

A - Not very much, not very much last winter

Q - Not very much was washed out? A - From the natural banks.

Q - Do you know anything about the nature of that soil?

A - Yes. I know the nature of it?

Q - What is it? A - Black soil, a dobe soil.

Q - Did it or does it bear any resemblance to the deposit

that was left on your land?

A - No certainly not.

Q - What was the difference?

A - Why one is black soil and the other is coarse gray sand.

Q - Do the natural banks of the river contain any of this coarse sand that you speak of, that is natural?

A - No.

Q - What if any resemblance does this sand that was deposited on your place bear to the sand that you spoke of in the bed of the Sacramento river?

A - Well, it is similar, very similar. It is a coarse gray sand, that nothing will grow on for a number of years; wait produce anything that I know of, for, I don't know how many years; a number of years, at any rate.

Q - Steamboat Plough was spoken of in the Cross Examination. Where is Steamboat Plough?

(Shows a map to the witness)

A- I don't know the distance

Q- Is it between Grand Island and the main land?

A- I think it is

Q- Which is the longer distance? Through the Steamboat Slough or around?

A- Steamboat Slough is what we call the cut off, the shortest route

Q- Do you know whether or not steamboat slough has been filled?

A- I do not
(It is understood that the map shown witness may be used as a diagram to illustrate his testimony but that it is not offered in evidence)

Re cross Examination
of
Wadsworth Hoodgdon
By Mr. Patton.

Q- Captain, When the river breaks through and carries away the levee or any portion of the banks and that soil is washed down through the water, doesn't the lighter

particles float for a considerable distance and the heavier portions deposit, and when the water is gone off of it, form what ~~we~~ ordinarily call sand?

A- I suppose it would, but the amount of earth in a levee is so small, that it would not be noticed; wouldn't notice it in a break.

Q- How is that?

A- The amount of earth in a levee that it would wash away would be so small that nobody would ever notice it. The deposit would never be noticed on the land. There would be so little of it.

Q- Well, don't you suppose that if the material that was washed out of that first break was spread out over your land, it would cover it for a couple of feet deep for fifteen or twenty acres if it was all lodged?

there? A - Twenty acres of land? Well if it all lodged on my land I suppose it might cover it an inch deep.

Q - What A - If it all lodged on twenty acres of land it might cover it an inch or two deep.

Q - My question was, that when the river washes away the levee or natural bank carries that away, whether the finer particles are not floated off to a considerable distance and the heavier ones deposited in the form of sand along the back of the current?

A - If the levee was composed of sand, any portion of it.

Q - Well is not a portion of the levees, of the earth of which levees are constructed, sand?

A - Well, if it is taken from the back of the river, from the sloping bank, why, it would naturally be some sand.

Q - One of the levees was constructed of that material

A - Yes. There would be some sand in that, but not this coarse gray sand that I speak of. There would be more of that, in that levee

Q - Is all the material on yours coarse gray sand? Is it all coarse gray sand?

A - All that I spoke of is. You don't seem to understand me.

Q - Isnt there a great deal of it that is of this fine sediment?

A - No there is not

Q - None of that kind?

A - No, I have about two hundred acres farther back than the land I speak of being damaged that is covered perhaps; last winter perhaps it was covered, perhaps a hundred acres of it, was covered a foot deep

Q - What with?

A - With this fine sediment

There is some coarse gray sand amongst it.

Q - You say there is a hundred acres of it a foot deep.

A - Yes it varied average a hundred acres more than a foot, perhaps a foot and a half or two feet.

Q - Where did that material come from? (No answer)

Mr. Cadwalader - Q - Captain Hodgdon will you someday this week bring in a sample of that sand?

A - I will do it.

Mr. Battie - I will ask Counsel to ask Mr. Hoag to bring in here a sample of the material that he calls slickens.

Mr. Cadwalader - All right.

Mr. Battie - Now Captain when you bring in some sand with you bring in some of the slickens. You know what slickens are, do you not? Do you know what slickens is?

A - No I don't.

Q - Did you hear Mr. Hoag's testimony? A - Yes Sir

Q - Did you hear him describe the slickens?

A - Yes Sir

Q - Have you seen any of that stuff that he calls slickens over there?

A - Yes Sir.

Q - Will please bring some of that in with you when you bring the sand.

A - I don't know that I can find any.

Q - Is it scarce over there?

A - Well it is not very scarce when the flood first comes down it is not very scarce, but at this time of year it dries up. I suppose I could tell some of it it dries up very hard, something like a cement.

Q - What? A - It is something like a cement, like a mineral paint

Q - Will bring some of that cement and mineral paint along with you. A - Well if I can find any I will do so

Testimony
of
J. N. Babcock

Called for the plaintiff, Sworn.
Mr Cadwalader. Q. Mr Babcock,
when did you come to California?

A. 1849.

Q. Where did you settle?

A. On the north bank of
the American River.

Q. How far from the mouth
of that stream?

A. It is one Spanish league
by the old river, by the mean-
derings of the river.

Q. By the meanderings of
the old river? A. Yes, sir.

Q. That is near the western
boundary of the Rancho del
Paso, is it not?

A. Yes, Sir.

Q. Generally called the Morris,
grant; now called the Paggin
and Teris grant?

A. It is near the bridge;
the north end of the bridge,
it is near the corner of the

grant.

Q. How near is it to the first bridge that was constructed across the American River?

A. The present bridge that they have now is right at the corner of the grant but the first bridge that was constructed in 1851, the fall of 1851, is nearly one hundred yards up to the river from where the present bridge is.

Q. What street running north and south in Sacramento, if extended, reaches what is called Lyles' Bridge?

A. The present bridge, I think is on Sixteenth. The first bridge was on Seventeenth Street.

Q. You have lived, you say, since the latter part of 1849 on the north bank of the American River?

A. Yes, sir.

Q. How close to the river?

A. Well, it is near the bank. It is probably eight or ten rods from the bank of

The river

Q. What is your business?

A. I have been farming part of the time, and teaming and ten years of the time I have been tending to the bridge and running a ferry across the American River.

Q. Has the American River been constantly under your eye since 1849?

A. Most of the time. Yes sir.

Q. Were you in Sacramento City in 1849?

A. Yes, sir.

Q. Did you see the class of vessels that were then in the harbor?

A. Yes, sir.

Q. What kind were they and how many were there?

A. The vessels that I saw, they were all said to come around the Horn. In fact the people told me that come on them.

Q. You have seen ships there, haven't you?

A. Yes, sir.

Q. They were sea rigged?

A. Yes, sir

Q. Bluff bows, and steep proops. Do you recollect the appearance of the banks of the two rivers?

A. As a general thing they were bluff banks, abrupt bluff banks as a general thing

Q. What was the condition of the water in the two rivers?

A. The water was clear

Q. Now in regard to the timber on the banks of both rivers?

A. At the junction of the two rivers, the Sacramento and the American, there was very large sycamores, trees growing both on the bank of the American and on the bank of the Sacramento where the two came together, the junction of the two rivers.

Q. How was it as you went up the American River three or four miles?

A. As we got up further it was composed more of oaks which stood on the bank and some willows but I noticed when I first came in 1849, and camped, I camped under a large oak which stood close to the bank of the American River.

Q. Do you know the kind of steamers which were navigating the Sacramento River in early times between here and San Francisco?

A. I have travelled on the river. I never navigated it.

Q. Well, you noticed the kind of steamers that navigated it? You have travelled on them?

A. I have travelled on the river.

Q. What steamers did you travel on?

A. I have travelled on the New World.

Q. Any others?

A. I don't remember of

travelling on any other steamer except the New World, but I remember the Senator and the Hartford, and such steamers that plied between here and San Francisco. from Sacramento to San Francisco at that time

Q. How often did you go up and down on them, what years?

A. I could not state the years, but I have travelled on the New World and Crisopolis. The Crisopolis came out a good many years after the Senator used to run. I don't know the exact time but I have travelled on the Crisopolis, and the New World that I remember particularly

Q. Do you recollect whether the Crisopolis was a larger or smaller boat than these sea going steamers?

A. Well, I don't know. I should think the Crisopolis would carry as much freight probably as the New.

World. I don't know but more, but it was a different style of boat.

Q. Wasn't she about twice as large?

A. Well, I don't know but she was. She was a very large boat.

Q. Do you know what was the condition of the Sacramento River up to the year 1861 as to navigation?

A. I never heard of any trouble of navigating.

Q. Sir?

A. I never heard of any trouble in navigating the river up to about 1860 except that I have heard that there was a bar called the "Hog's Back" that they sometimes had trouble with.

Mr Catlin. Well, if you don't know anything about it, you need not tell what you have heard.

Mr Cadwalader. Q. Do you recollect the original condition

of the channel of the American River for the first five miles from its mouth?

A. Yes, sir I remember that in low water we could ford the river where Lyle's first bridge was built, but at the time that I first came to Sacramento the water appeared to be very deep at the mouth of the American River because there was vessels at that time tied up at the mouth of the American River I might explain here, why I was there so particularly at the mouth of the American River, I went there to haul freight for a man that had come around the Horn on vessels, and took their freight at that time to what at that time was called Hangtown. It is now called Placerville. I loaded freight on to ox teams, and their baggage and stuff and went to a place called Hangtown

at that time

Q. Well, what kind of a bed did the American River have for the first five miles?

A. At the crossing where the bridge was built, the bottom of the river was smooth, white sand, but three miles above, about three miles above it was boulders, rocky bottom.

Q. What kind of banks did it have?

A. Well, as a general thing they were abrupt banks so that if a person wanted to go down to the river they would have to dig in the bank. I know they did dig for to go down to the ferry boat where they ferried there and also to the freight-

Q. What was the character of the water?

A. In 1849 and 1850 especially in 1849 the river was as clear as any spring I ever saw. The water was

As clear as any spring water
 Q. Can you state to the Court how much the bed of that river ~~has~~ filled up since that time?

A. Well, to the best of my judgment I think it is not less than fifteen feet

Q. Sixteen feet?

A. Fifteen or sixteen

Q. Fifteen or sixteen feet during the whole of this five miles? A. Yes, sir

Mr Catlin, I object to that That is certainly an objectionable question

Mr Cadwalader, Q. When did that fill commence?

A. It filled more, it was more perceptible in the year of 1862 and '3 than it was previous to that time. Previous to that time we did not discover the filling so much until the flood of 1862 and '3. It filled very much that year, and has been filling since that time

Q. Well was there any filled there that amounted to anything?

A. Not a great deal. There was some little bar but not much.

Q. How much of that fill of sixteen feet has occurred say since 1861?

A. Well seven eights of it.

Q. What is the character of the material which constitutes that fill?

A. It is mostly sand.

Q. What kind of sand?

A. It is white or gray sand, betwixt a gray and white.

Q. Gray sand with or without sediment in it?

A. Yes, sir.

Q. Well, which? Is it simply sand?

A. It is mostly sand. Yes sir.

Q. You have noticed the natural surface of the ground inside of the levees of this city, have you not?

A. Yes sir.

Q. Are you able to state about how near the present bed of the American River is to that natural surface?

A. I don't know that I could state that exactly

Q. Well, as near as you can

A. I don't think there is more than two or three feet difference, three or four, or something

Q. That would be on a line running —

Mr Catlin (Intg) I object to that question, right now.

Mr Cadwalader. Well, then, I will put it in another form. On a line running in what direction?

A. I don't exactly understand your question

Q. What direction does the American River lie from this town where you live?

A. The American River from here lies a northeast course from here

Q. In what direction do the streets of this town run?

A. They run east and west and north and south.

Q. Well, say you take Seventeenth Street in this town and extend until you cross the American River, how much higher would the natural ground inside this city be than the present bed of the American River?

A. Well, as I stated before I don't think it would be to exceed four feet if it was over three.

Q. Not to exceed four feet?

A. Three or four.

Q. Did you ever notice any tides, where you lived, in the American River?

A. Yes, sir. There was regular tides there in 1849 and '50 and '51.

Q. When did you last observe them?

A. Well, after 1857, after the bridge was built my attention was not

drained to it so often. Previous
 to that time teams in crossing
 the ford would get stalled
 and I used to go and haul
 them out with oxen that
 I had and in low tides there
 was not much difficulty in
 crossing, but in high tides
 it was a little difficult and
 when the horses would get
 in deep water they would not
 pull and they would stop in
 the river. I used to take my
 oxen and go out and get on
 one of the oxen and drive
 down and hitch on to the
 wagon and pull them out. I
 have done it a great many
 times. That was in 1850 and
 51 - in the summers of
 50 and 51

Q. You say there is no
 tide there at all now?

A. There is no tide I
 have not seen any for years.

Q. Did I understand you
 to say that you had been
 farming out there?

A. Yes Sir. I am the place now that I first settled on when I crossed the plains in 1849.

2. How large a tract of land is that?

A. Well I bought a small piece of the Rancho del Paso It is a part of the old Morris grant which now belongs to Lewis and Haggins. It is called the Morris Ranch grant.

2. How much land have you out there?

A. I have got thirty five acres

2. How much?

A. Only thirty five

2. Have you any back land?

A. I don't understand

2. Any back land?

A. Running back from the river?

2. Yes Sir.

A. It lays nearly square on the river, runs back a piece from the river and up and down.

2. Did you cultivate that

land from 1849 to 1861?

A. Yes Sir.

Q. Did you have any trouble in cultivating it from the water?

A. No Sir. The water was on it in 1853 but it went off and the land was not injured at all.

Q. During those years did you raise crops on your place.

A. Yes Sir

Q. Regularly and Annually?

A. Yes Sir.

Q. What Kind of Crops?

A. I raised vegetables in 1850 and '51 and afterwards I raised grain on it. I had ^{one year that I recollect that} twenty acres in wheat that averaged me fifty bushels of wheat to the acre when it was threshed.

Q. Did you have any trees?

A. Yes Sir. I had some fruit trees but since the sediment came up on them they died. Of late years the sediment comes down and when sediment

settles around trees they die.

2. Has the Cultivation of that place been interfered with by overflow?

A. I have not raised anything for two or three years on account of when the overflow comes up it brings sediment and sand, and there will not nothing grow in it until it has a chance to rot and pulverize. And it keeps coming on every year and consequently I do not get no benefit from the land.

2. When did you first find yourself unable to use your place in the usual way?

A. Well I have cultivated it until the last two or three years. For the last four years though I have not been able to raise much on it.

2. What kind of sand is it that spoils it?

A. It is, I believe they mostly call it gray sand here.

It is between a white and a gray.

Q. What is the natural soil?

A. It is the same sand that is in the river and in all the places that I have seen near the river.

Q. You spoke about there being wet sand in the bed of the river when you first came there? Is this sand on your land anything like that?

A. No Sir, It was a black soil. all the land on both sides of the river was black soil but in the bottom of the river the depth was nearly uniform from one shore to the other, and the bottom of the river was a white sand.

Q. No, but I am speaking about the deposits of the last three or four years on your place of the water.

A. I don't exactly understand

2. You speak of there being a kind of gray sand now in your place, being carried there by the waters of late years?

A. Yes. Sir

2. And you speak of a fine white sand in the bed of the American river in early times. I want to know whether those are the same articles or a different article?

A. Very near alike, I think they are very near alike, very near the same.

2. That is the sand in the water course is like the sand on your farm?

Mr Catlin I object to that question as leading

Mr Cadwalader I withdraw the question

2. How deep is the sand on your farm?

A. There is places where it is three feet deep

2. How deep?

A. About three feet in the

deepest place.

2. How much of your place is covered?

A. Well nearly one half. There was a levee built there some years ago called a Swamp Land levee, and that levee prevents its coming in on part of my place, but where the levee has given way, when the water rises the water runs in and brings sand in, but where the levee stands the sand don't come in as much as it does at other places.

2. When did this sand first commence? When did you notice the first sand deposit on your place.

A. The sand commenced on my place about four years ago.

2. Before that time you had no sand

Mr Catlin one moment. I object to that last question Mr Cadwalader. 2. Well did

you ever have any sand
ribone that? A. No Sir.

Q. What is the Condition
of the adjoining farms to
yours above and below and
across the river?

A. Well on this side of
the river opposite my place
it is much worse than it
is on my place.

Q. I mean are
there farms all along the
banks of the river, or have
there been since early days?

A. They are very much
injured on both sides.

Q. That was not what I
asked you. I asked whether
there were farms on both
sides of the American river
for the first five miles from
the early times till now?

A. Yes Sir

Q. Farming Communities
residing there? A. Yes Sir

Q. Ground in the state of
Cultivation? A. Yes Sir.

Mr Beath All these questions are leading every one of them. Let him describe the Character of the Surrounding Country there if he knows.

Mr Cadwalader Will describe the size of the farms as a general thing And what they were used for

A. Do you want me to describe on both sides of the river?

2. Yes Sir on both sides of the river?

A. On this side of the river it has been used mostly for fruit growing, that is, after we get up about two miles up the American river on this side. It is what is called a tract which belonged to Judge Beath^{which} has been used mostly for garden. Then we get up to where they have used it for fruit on this side, but on the other side there is some fruit orchards, but mostly

cultivated for garden vegetables and raising grain.

2. Well when did those settlements first occur?

A. Well, in 1850-'57 and '52 along there

2. What is the condition of that land now?

A. Most part of it is ruined or nearly ruined.

2. What with?

A. With floods, and sediment and debris

2. Well how as to sand?

A. The sand has been a great deal worse for the last two or three or four years previous to that the debris that came down was fine and it would destroy the soil for the present time, but in course of time it gets so it produces, but the sand ruins the land when that comes on it

2. So what class did that land belong before these deposits were made upon it here in

the last four or five years?

A. It was the best of land

Q. Well, what Class, first, second or third?

A. Well it was first class land.

Q. What was it particularly adapted to, what kind of products?

A. You could raise anything you wanted to on it, grain or vegetables or fruit.

Q. How as to hops?

A. Well you could raise splendid hops.

Q. How low products requiring very rich soil? - Corn?

A. The soil was rich on both sides of the American river in early days.

Q. Do you know where Lane lived?

A. Yes Sir.

Q. Where was his place?

A. His place was about two miles above mine.

Q. On which bank of the American River?

A. On the north bank.

Q. Did he live there and cultivate it? A. Yes, Sir.

Q. What kind of land was it?

A. It was considered splendid land at the time he cultivated it.

Q. Well, how was it improved?

A. The land is not considered as good as now.

Q. No, but I mean how was it improved by Searns?

A. It was under a high state of cultivation. He had a fruit orchard on it and raised peaches.

Q. Did he have an orchard on it?

A. Yes Sir, he had. I think over one hundred acres set out to peaches.

Q. Well what is the condition of that land now?

A. Well that land has not been destroyed by floods, by this debris as we call it. It has been blown so much that there is what we call

alkali has risen to the top of the ground so that the land is not very productive.

Q. What Caused that?

A. I don't know why it is caused but the most of the same place is not covered with this sand like other places.

Q. Is there any part of it covered?

A. Well, I could not say whether there is any sand in it.

Q. What is back of that orchard?

A. Oh! It has been killed by continual floods.

Q. Floods from where?

A. The American River floods.

Q. Floods from the American?

A. Yes, Sir.

Q. There is no orchard there now?

A. No, Sir.

Q. When did this occur, since what years?

A. Mr. Larue I understood in 1862, the season of 1863 -

the season of 1862 and '3
I have heard that he sold
ten thousand dollars worth
of peaches that year.

Mr Callin You need not
tell what you heard.

Mr Cadwalader, 2 The question
I asked you, Mr Babcock was this;
during what years did
his damage to the Larue
place and Larue orchard occur?

A. It has been destroyed
since 1863.

2. Since 1863? A. Yes Sir.

2. What was its Condition
say in 1863?

A. Well it was in splendid
Condition at that time.

2. Everything looking about
right? A. Yes Sir.

2. How near was that to
the American River?

A. There is a slough there
a sort of a lake as it is
sometimes called that lies
between that and the American
River I think. It is rather
a slough between that and,

the real American River

Mr Leathin - 2 - Called Brushy lake:

A. Brushy Lake, I think that is what they call it. I think that lays between part of the place. There is part of the same place I think runs very near to the American River.

Mr Cadwalader 2. Did his place run down to the river? A. I think it did this end of it.

2. Well what is the condition of the land at the other side of the river - this side of the river?

A. What point?

2. Do you know where Smith's gardens are?

A. Yes, Sir.

2. Well say Commencing at the upper end of Smith's gardens and going down to the mouth of the American river.

A. The land is all very much injured

2. By what?

A. By bloods and sand and debris

Q. Well how deep is the sand? A - I could not state that but I never have measured it

Q. Well about?

A. About two to four feet

Q. Clear down to the mouth of the river?

Mr Catlin That I object to as being leading

Mr Cadwalader Q. Well how far down does it extend?

A. I think it extends all the way the mouth of the river.

Q. How far back from the river does it extend?

A. Well in answering that question I would say this: That the Coarse sand generally stops nearer the river than the sand that is finer. The fine sand, the very fine sand, some call it sediment will blow further back than the coarse sand. The coarse

Sand is generally nearer the river than what the sediment is. This very coarse sand I would think would extend back say forty or fifty or maybe one hundred rods in places from the river and I don't know but other places farther than that.

2. Well now I will ask you what is the condition of the land on the north side of the American river west of you?

A. Well if we should go west from where I live, we would have to come on this side of the river

2. Well I mean keeping on the north bank of the American?

A. Going East?

2. Yes Sir

A. In going east from where I live —

2. (Intq) Going west. going west from where you are?

A. West in this way. (pointing)

2- I mean then going north-west or rather, going towards the Sacramento river, keeping on the north side bank of the American?

A- Well the land all the way down from where I live is more or less covered with this debris, half a mile from where I lived I suppose it came in this last winter not less than six feet in some places

2- Not less than six feet of what?

A- Of sand. It came in this last winter in places from four to six feet deep of sand, this last winter.

2- Do you know where Holland's place is?

A- Yes sir that is right opposite to mine on the opposite side of the river

2- That is at this end of Latue's ~~for~~ bridge, isn't it?


A- Yes sir

2- Do you know how much the American river filled at that place last winter and above the bridge?

A- Well, to the best of my judgement it is from two to five deep, the sand.

2- That was the fill of the last winter there.

A- I could not say whether it all came this last winter or not. I was employed there in filling a school lot. I got my sand off of his place and in digging I should judge that it was from three to, in some places as high as five feet, say from two to five.



2- Do you know anything about the roads extending through from this city to Marysville and Nevada, do you know where they commence? A- Yes sir

2- Where? A- Well, I don't know how to answer that question exactly. Where they commence?

2- With regard to the city boundary, what place in the city boundary, the north boundary of the city?

A- The 12th street bridge is on 16th street. In travelling from the city if you were going to Nevada you would probably go up J street to 12th street, take 12th, and go out to near the bridge, and then the road leaves 12th street and strikes the bridge at 16th.

2- The city line ceases at a street - doesn't it? A- Yes sir

2- The city line ceases at the a street - levee.

A- yes sir and then there is what is called the north-extension which is laid off

in streets running north and south - and east and west the other side of R.

2 - Across A street levee there is a road running to what is called Lisle's bridge? A - Yes sir

2 - When you cross the river on Lisle's bridge and then you go on the other side?

A - Yes sir

2 - And then the left-hand road is the Manville road and the right-hand road is the Nevada road? A - The Nevada and Auburn, yes sir.

2 - State if you know what the condition of that road here in late years during the overflows of the American?

A - ~~Yes~~ Well at times they have been impassable - almost every winter there is a time that they ~~are~~ are impassable so that you cannot travel at all and they have had to build bridges on this side and on the other side?

2 - What renders them impassable

A - It is caused by the high water.

2 - Well, what else beside water? anything? do they get cut away?

A - I don't remember of these being cut away. They do in places cut where they have build a levee as they did last winter. When I think about it the high water will cut through the levee.

2 - Any deposite made on them?

A - Nothing to misure them that I know of.

2 - Have you ever noticed the cut in the road, on this side between Hollands house and the bridge?

A - Yes sir

2 - Who was that made?

A - It - cut through there last winter, I believe.

2 - There is a school house there is 'nt there?

A - Yes sir

2 - Didnt it nearly wash that school house away

Mr. Catlin. I object to the question as being leading

Let him call his attention to something else, and let him describe. I prefer his description to yours.

A. Well the school house lot was filled up last fall. I helped fill it up and it took nearly half of the filling away.

The school lot was nearly one hundred and fifty feet square and they filled it up at considerable expense, and this last winter very near one half of it went away.

Mr. Cadwalader—What occurred to the road between Hollins house and the bridge?

A. There is a levee. The road is thrown up and leved and one running across, it cut through in three different places I think. From the levee to Mr Hollins place I think there is three cuts where it cut through.

Q. What was the condition of the road on the other side, the other approved to the

bridge. Now long would that be over the bottom?

A. I don't remember the exact time but I think the road is impassable for at least a month, and I don't know but longer.

Q. Is it the same way on this side?

A. Yes, sir.

Q. How long has that condition of things over there been observed by you. this condition of the roads?

A. This filling it you mean and obstruction by the water?

Q. Yes, the obstructions by water.

A. It has been a great deal more troublesome in the last ten or fifteen years than it was previous to that time.

Q. Has it been growing or increasing?

A. Growing worse all the time. It grows worse all the time.

Q. How is it in regard to inhabiting that country over there during the winter season?

A. Well, the travelling was done by boats when the water is the highest. It is pretty severe on those that have stock. I lost quite a number last winter.

Q. How long did the floods remain there as a general thing?

A. Well I think the high water last winter prevented travelling at least a month and I don't know how much more, but I should think it was at least a month

that communication was cut off so that people could not travel by the public highway

Q. What effect does the raising of this river bed that you have spoken of and the overflows of the American produce upon the agricultural capacity of that country?

A. The river bed being filled up so high that the river has not got the capacity for carrying the water that it had before it

filled. Consequently the water has to come out of the river banks, come over the banks and run outside of the river proper

Q. Do you recollect when this cut was made in the American? A. Yes sir

Q That is, I believe, west of you is it not? A It is south-

Q (Interrupting) It is cut off between you and the Sacramento River?

A. It is south west, yes sir.

Q. Well, it is between you and the Sacramento River?

A. The canal as it is called, lies between my place and the city

Q. That is what I say - and the Sacramento River?

A. Yes sir.

Q. How far is the canal from your place?

A. It runs right through my place, the canal does

Mr Catlin The canal goes

right through that place

A. Yes, sir.

Q. When did you first know if at all of the American River bringing down any considerable quantities of this sedimentary matter?

A. It was the winter of 1862 or 1863, brought down I think more that season than all that was brought down previous to that time

Q. That is 1862?

A. 1862-3. Yes, sir; the winter of 1862-3.

Q. You say more came down that winter than all the previous winters?

A. I think so. Yes sir.

Mr. Cattin. You mean 1861-2 don't you? During the big flood; that was in 1861-2, not 1862-3.

A. Well I mean the big flood. I believe it was. I had got it in my mind that it was 1862-3 but it was 1861-2

Mr. Cadwalader. Well, how has it been since during the stages of high water?

A. Well, since that time it comes faster and more of it as a general thing.

Q. What is the appearance of that river during the high stages since 1862?

A. Well when it first raises the water?

Q. Well, describe how it comes down? How soon after the rain sets in in the first place? A. Well, it is very soon after the rain, if it rains one day the water will be up the next.

Q. That is a rain in a day brings the high water down in the night on the American?

A. Yes, sir.

Q. What has been your observation? A. Yes, sir.

Q. Now after a very heavy rain how does the American come down?

A. In what manner?

Q. What is its appearance?

A. Well, it runs pretty fast and the water is pretty thick.

Q. How thick?

A. Well, I could not tell how thick.

Q. Well, about ^{how} thick?

A. I could not tell ^{what} ~~how~~ ^{prop} ~~thick~~? portion of mud to water there was, but the water is very muddy.

Q. Well, give his Honor some idea? A. I should [think] that at least one fifth of it was mud.

Q. What would be about twenty per cent? How does come down? Like —
Mr Cattin. Well, let him tell what it is like?

Mr Cadwalader All right, after one of these heavy storms?

A. It has a very strong current.

Q. Anything more than that?

A. The question is, how does it come down?

Q. Yes, how does it come

down? What is its experience?

A. It comes with great velocity.

Q. Well, at what velocity?

A. Well, I should think the current would run fifteen or twenty miles an hour. It runs very swift.

Q. How rapidly would it rise during one of these freshets?

A. I have known the American River to rise, in twelve hours, I should think it rose twelve feet in twelve hours.

Q. That would be a foot an hour?

A. Yes, sir.

Q. Where would that be?

The Court At what point was the rise? At what point of the river?

At the point that I saw it rise, that I remember of was at the mouth of the American River. I was one year engaged in having a crossing there, a sort of a bridge, a pontoon bridge

we called it, and I remem-
ber that part of it was
constructed with a flat boat
and the flat boat got away
from me and I caught it
between there and the city
and tied it up to a tree way
up on the bank. I went there
the next day and the water
was all over the land and
if I had not had it tied to
the tree my boat would have,
even if I had had it on the
bank, it would have been
gone and I think it must
have raised that much.

Mr Cattin - Q. Was that the
old month you are speaking of?
^{Was it the old month of the American River that you}
~~old~~ No, Sir, it was the present
month.

Mr Cadwalader. Q. What is
the appearance of that river
during high water where it
joins the Sacramento?

A. At what time of year?

The Court. High water?

Mr Cadwalader. Well, during one of these freshets?

A. In very high water the American River rises sooner than the Sacramento. The consequence is that the American will strike the Sacramento but seems to shoot across to the opposite bank.

Q. How much higher is the bed of the American River at the mouth than the bed of the Sacramento?

A. I don't know what difference there is but at the junction of the two rivers, this fall, say one month ago I was there, there is a sand bar formed at the mouth of the American River that extends very nearly halfway across the Sacramento.

Q. No, but I mean how much higher is the bed of the American than the bed of the Sacramento?

A. Where they come together?

Q. Where they come together?

A. Well, I don't know the depth of the Sacramento river at that point. The American is running into the Sacramento but I could not tell how deep the water in the Sacramento River is consequently I could not answer that question as to how much difference there is between the beds of the two rivers.

Q. Well, which is the highest?

A. The American is the highest.

Q. Apparently how much higher? A. Well at the mouth of the American River, I don't think that the Sacramento River is over 6 or 8 feet deep, and could not be more than 6 or 8 feet difference between the two.

Q. How much difference?

A. 6 or 8 feet

Q. In other words the American then where it plunges into the Sacramento is 6 feet?

Mr. Catlin - Wait one minute, that is leading.

Mr. Cadwalader - Well you say the difference is six or eight feet in height. A - Well from the bottom. I understand you to ask me this question: what was the difference in the bottom of the beds of these rivers.

2. The bottom of the beds of the rivers.

Mr. Catlin - You say you don't know what the depth of the Sacramento is?

A - My answer to that question is this: that I do not know the depth of the Sacramento river. If I did I could tell you the difference between the bottom of the river and the bottom of the American because the the American river where it empties into the Sacramento is not more ~~that~~ a foot and a half deep, a foot and a half or two feet deep.

2. How much higher is the bed of the American at low water than the Sacramento?

A. How much is the bed of the river above the top of the water do you mean?

2. At low water in the Sacramento

A. Well where the two join together, the bottom of the American river is pretty near on a level with the bottom of the Sacramento

2. Well suppose you go up the American how would it be then? A. Well if you would

go up the American river say three miles I think that the bottom of the river is considerably higher than the water in the Sacramento river because there is quite a current running down.

2. Is there any fill in the American river at the mouth
Ayes sir

2. Well how much of a fill?

A. Well I think the sand at the mouth of the river is ten

foot deep that is, there is a small channel running along there I think by the side of this channel.

2- That is low-water channel

A- What in the winter time is the American river there is ten foot of sand that would be piled up right by the side of the little channel that runs down.

2- Did you ever notice the American discharging into the Sacramento? Did you notice it last winter?

A- I was not there in time of high water. I have been there frequently this summer

2- Well I mean where the river was as high as its bank

A- No sir, I have not seen it in time of high water for the last five years, it was about five years ago I recollect the river rose so fast, we had had a very heavy storm

2- How much larger is the winter waters of the American

than the summer water

Q - Do you mean how deep is the American?

2 - No, in regard to volume

A - Well I think that the American river, when it is the highest would make fifty rivers such as it is at the very lowest; Yes I think it would make equal to that if not more.

2 - What is the character of that river in the summer opposite your place?

A - It is not very swift. It just passes along about three or four miles an hour

2 - Have you seen the Sacramento river immediately below the mouth of the American?

A - Have I seen it?

2 - Yes sir, in late years?

A - Yes sir

2 - Is not there a bar there

A - Yes sir

2 - Have you some idea of the size of the bar?

A - Immediately below the mouth of the American river I think the bar extends one half of ten distance across the Sacramento river.

2 - How far down the river would it extend?

A - It runs down to what used to be called the old gas works

2 - What kind of material is that bar composed of?

A - It is composed of sand.

2 - What kind of sand?

A - The other witnesses testifying here to the sand calls it grey sand. The quality of sand is all the same whether it is here in the Sacramento or in the American, I think it is all the same kind of sand. The river is full of it in time of high water and whether it is grey or white it seems to me that it is between the two, between a grey and a white. It is not a real grey

2- Can you state whether that sand is or is not growing a little coarser each year?

A- I think it gets coarser every year yes sir.

2- I will ask you whether or not the first bridge built across the American didn't have a draw in it?

A- It did

2- Did you ever see steamboat passing up and down there? A- Yes sir

2- Going through the draw

A- Yes sir

2- Do you know when the filling up of this old channel occurred?

A- What channel is that?

2- The old channel of the American river after the canal was cut through!

A- That commenced to fill up immediately after they cut what is called the canal. They cut it through there. as the canal widened the old river filled up.

2 - Will you state generally what difference these deposits of sand have made in the carrying capacity of the American? A - I would hardly know how to answer that question.

If you would ask me the difference between the river at this time and when I first knowed it I could tell you the difference.

2 - Well I guess you have explained that. Do you know where this sand comes from?

A - It comes from the sources of the river, I suppose it comes down the river

2 - Have you noticed any great change in the character of the water of the American River since 1860? A - The water since that time has become more muddy each year.

2 - Much more muddy? A - Than it formerly was? Yes sir

2 - Is it getting better or worse each year? A - It gets worse each year.

2- Gets worse every year?

A- Yes sir.

2- Does it grow more or less adapted to the different uses to which water is applied? Does it grow more or less adapted to individual, stock, family or farming uses?

A- Well I would state right here that as far as I know upon the American river upon the bars of the American river on each side. I have never known them to use the water for irrigating purposes. I have never known them ^{to use it} say ^{to} irrigate the land from the fact that it is not necessary to irrigate this bottom land that lays upon the banks of upon the American river.

2- I didn't say anything about irrigation? A- You ask me for what purposes they use the water for?

A- No. I asked you whether

it grows more or less adapted to individual, or family, or farming uses? A - Well the water that comes down the American river isn't fit for a human to ~~using~~ drink at the present time.

2 - How long has it been in that condition?

A - Well it has been so for the last ten years.

2 - How was it before that?

A - In the first

2 - But as a general thing how was it before that time? A - Well we used the water for drinking purposes up to about 15 years ago I think it is since we quit using it.

2 - That would be 1865.

A - Yes sir.

2 - Was it good enough then?

A - Previous to that time the water was very good for drinking purposes.

2 - Was it good enough for stock uses?

A- Oh stock still drives it
2- And for cooking?

A- We cooked with it previous
to that time.

2- What effect has this raise
in the river bed had upon the
farming land and their capacity to
grow crops and trees?

A- Well the filling up of the
river caused the overflows to
be much more serious to people
that wants to cultivate the
soil

2- At the planting season

A- Yes sir.

Q What effect does it have on trees? A. It will kill the trees, if it stays on long enough it kills the trees, and the more the bottom of the river fills up-

Q? [Inlg] I understand that- But I want you to state what the effect is- what is the effect of raising the water level on trees- fruit trees?

A. It destroys them.

Q you said that your knowledge is confined - I believe to a section of the American river running up five miles from its mouth? A. Yes Sir -

Q. Well where would that carry you on this Shore? about what place? A. above here?

Q yes. above here.

A. Well I am acquainted up as far as Brighton.

Q. On both sides of the river? A. yes pretty well acquainted on both sides of the river, up as far as Brighton.

Q you have stated the

General Condition of either Bank from Brighton down, have you not?

A. yes Sir.

Q It is just about the same thing? A. I think it has been more severe on this side of the river than it is on the other side

Q on the El Paso grant?

A. yes Sir

Q, where would a point opposite Brighton strike the El Paso grant? A. It would strike nearly where the old residence of Sam Harris used to be, the place called Hop Town now. it is about four miles above Lyles Bridge.

Q. state what has occurred to that land within the last ten years or fifteen years?

A. This Smiths garden place, I think is very nearly entirely ruined.

Q I mean on the other side of the river the El. Paso.

A. on the other side the land out. say four miles above the

Mouth of the American river has not suffered so severely as it is in the vicinity of Lyles Bridge and from that on down to the mouth of the American river. the first four miles say from the mouth it has suffered more than it has for the next two or three above that on the Rancho Del Paso The reason of that is there is what is called Brushy Lake and some sloughs that makes between the main land and the river and they have kept this sand from coming in on the land Q. Is there any slickens on this land? A. which land do you speak of?

Q. On the north bank of the American from the bridge up to Hop Town. A. the slickens that you speak of came there five or six years ago - four years ago. probably - but of late years the slickens has been covered up by a coarser

Sand.

Q But there is some there is there? A. yes Sir, there is slickens on the land, more or less, but of late years the material seems to be coarser. It is sand now that comes in.

Q How large an extent of land up there has been covered by either slickens or this sand to some extent?

A. I would like to explain this way, that on the north bank of the American river near, say, at Lyles Bridge it is probably not over between a quarter or half a mile. It is not over half a mile until we strike what is called the red land. It is the higher land. The bottom is not very wide, when they asked me this question: how much of the land has been covered, I will state that it is not a great distance from the American river until

we struck what is called the high land.

Q. About how far would it be on that side? A. I think the distance from the American river to the high land is between a quarter and half a mile, not over; not to exceed half a mile at Lyles Bridge.

Q That is above Lyles Bridge? A. Then as you go in a North-west Course from there we strike -

Mr Gatlin (Inty) A Northwest Course? A. It is lower land The bottoms is wider Those bottoms has been covered with Slickens to the depth of from one to two feet for hundreds of acres. Those bottoms I speak of is not so much this Coarse Sand as it is Sediment we call it Sediment when it first Comes on and it is wet. they call it Slickens and ~~it~~ afterwards. when you plow it. they call it Sediment

after a while,

Q Is this deposit noticeable until you get up to Hop Town?

A. Do you mean this sand?

Q. Sand and Sediment!

A. Yes Sir. My place lies between the Sacramento river bridge and Hop Town. My place is immediately above the bridge. up the river from the bridge, but say for the first mile above the bridge the sand has come out after that there is a lake or a slough that lies between the main land and the river and that lake and slough and thicket of willows have protected the land, kept the sand from coming out.

Q That is from going on to the red land? A. yes Sir.

Q. But wherever there is any bottom land there, that is all covered? A. Not this large place that you asked me about. There is not a great

deal of this Sand upon that place

Q. I mean there is some?

A. There is some. yes Sir.

Q. Well now Keep on and give the Condition of affairs until you get up to Hop Town lake-

A. Well the land at Hop Town, There is some of it that is very productive at the present time They are raising hops there, and it seems that the debris has not injured that land as much as it has others.

Q. How is it along the margin of the river?

A. Close to the bank of the river is a good deal of Sand.

Q. How is it with regard to willows and Cottonwood thickets?

A. They have allowed the willows and Cottonwoods to grow on the grant, and it has acted as a protection to the land-

Q. Have you described the Condition of affairs on the South bank of the river, as

to the extent of territory covered with either sand or slickens, within the last ten years? A. On the South Side of the river I think they have suffered a good deal more with sand than they have on the North Side and one reason of that is that the river comes around on a turn, and on the outside of a circle the sand comes on a great deal more than it will on the inside of a circle, For instance, if the river runs and makes a turn it seems as though the sand will go on the outside of a circle a great deal more than it will on the inside, and I don't know how to account for the sand coming on the side next to town, any more than it does on the other side.

Q Say take all the land north of the A Street levee

in Sacramento and up to the New Channel of the American river! A. It has already been very much injured up through all that lays outside of the levee.

Q How many acres would that make there, within your own personal observation?

A. I could not state.

Q Say take both sides of the river. A. I could not state that, as to how much

Q Well give us a rough Estimate.

Mr Catlin, Don't make it too rough.

Mr Cadwallader, Take the length of each river bank. It would be five miles from each side that you say you are acquainted with?

Mr Catlin, No. He has not said five miles, That is your question

Mr Cadwallader, I beg your pardon. did you say you had been acquainted with it five

Miles? A. I am pretty well acquainted with the river, on both sides of the river, for five miles up.

Q. Will now give the extent on each side of those five miles? A. I will state here that I don't know very nearly how much land lies outside of the levee.

Q. Does it run down to the levee on this side?

A. Very nearly all the land lying between the levee that levees this city in along the American river very near all of the land has been very much injured that lies on the outside and some of it has been totally destroyed.

Q. To the full extent of the five miles? A. For nearly the entire length.

Q. How is it on the north bank of the river?

A. On the north bank of the river there is, say, from four miles from the mouth

of the river down. that has been nearly destroyed, that is immediately upon the bank of the river; but then after we go up, say four miles from the mouth, going up above on the Rancho del Paso as I have stated here before, it is partially protected by a lake, what is called Brushy Lake. Mr Callin, Q. Brushy lake is not up there Brushy lake is nearer the City, isn't it?

A. Brushy lake is four miles from the mouth of the American river.

Mr Callin. It is not up there where you are now describing?

Mr Cadwallader, Q. How many persons were there occupying this section of the Country farming up to 1863? A. On both Sides of the River?

Q. yes Sir. Engaged in farming and fruit raising.

A. I could not state that.

Q Well about? A. It was

all under Cultivation. all the land was Cultivated.

Q. Large or Small farms?

A. Generally Small farms

Q. A good many Vegetable gardens? A. Yes Sir. a good many Engage in raising Vegetables and fruits.

Cross Examination

of

J. N. Babcock

Mr Catlin.

Q. Your place as I understand you is right on the Canal as it is called?

A. Yes Sir the Canal went through my place.

Q. Is the Channel of that part of the river filled up any? A. The Channel of the Canal.

Q. Yes. A. Yes Sir

Q. How long is that Canal

A. It is about a little over a mile.

Q. Now. isn't it a good deal less than a mile? Look at

this map here, (showing map to witness) now. there is a map showing the old American river. There is where the Cut goes through (referring to map) That distance is a thousand feet (Referring to scale on the map) now look at that there (Referring to Canal) Is that Canal two thousand feet long? A. It is a little over a mile.

Q then that map cannot be anywhere near correct.

Mr Cadwallader. Mr Catlin there is a larger map of the Sacramento. ~~It don't make any~~

Mr Catlin. It don't make any difference if the map is correct. Here is a map that has the scale of distances on it and according to the scale of distances on this map that Canal cannot exceed 2000 feet in length. It will fall short of that. Well. it is not very material.

Q. Now. the water runs

through there with a very swift Current. when it is high?

A. yes Sir

Q. I understood you to say fifteen miles ~~below~~ an hour?

A. It runs very fast when the water is high.

Q. when that water is going through there dont it keep that Channel clear entirely? A. There is a bar in the Channel - there was bars in there before this last rise -

Q. I am asking you when it is high and full and running at the rate of 15 miles an hour doesnt it sweep everything out clear?

A. It does at that time - yes Sir.

Q. The bars such as are in there are formed when the water is low? A. when the water goes down we see the bars.

Q. at low water in the Summer season how much water

runs out of the American river Compared with the Sacramento river into which it empties? how much larger is the Sacramento at low water than the amount of water that is carried in the American? A. at low water?

Q. yes. A. well the Sacramento is much the largest of the two.

Q. Very much the largest isn't it? A. I could not state that correctly for I don't know.

Q. The Lisle bridge and the American river bridge are not the same are they. when you speak of Lises Bridge?

A. Yes Sir. it is the same bridge.

Q. Oh, it is now called the American river bridge?

A. Yes Sir

Q. It is about opposite Sixteenth Street. you say?

A. Yes Sir

Q. you go to it by going

down Twelfth? A. Yes Sir.

Q And then you turn up?

A. Yes Sir across the lots

Q. Now your place is below

that? A. It is above it -

above the bridge -

Q Then this map cannot be anywhere near correct?

Mr Cadwallader. Those blocks there should be 400 feet from Centre to Centre, you can get some idea of distances from that.

Mr Catlin. According to this map there is Sixteenth Street (Referring to map) you go out and you strike the bridge there and you say you live on this Canal? A. The Canal runs through my place.

Q How many acres have you?

A. I have 35.

Q You live above the bridge, or below it? A. I live above the bridge.

Q You live above the bridge?

A. Yes Sir.

Q Your 35 acres is in what

farm? Is it about Square A. No sir. it is longer from North to South than it is from East to West

Q. It is longer in its depth than its front on the river? Its river front is the narrowest part of it. is it?

A. The piece of land is rather in the shape of a half handkerchief.

Q. Your statement ~~here~~

Q. Judging from this map which I have supposed to be correct and supposed was acknowledged to be correct - I don't see how you can live up there above that bridge, above Sixteenth Street and still have this Canal down here go through your land. A. Well. I will state that the river - I would say that the bridge is not on the City plat here but on the extension - Suppose Sixteenth Street is extended to the river, there is where the

bridge stands.

Q. Precisely. Here is Sixteenth Street strikes out here and and here is the levee wall when you lived there at an early day you say the teams crossed the river?

A. Yes Sir

Q. going out from this city to the mines? A. Yes Sir.

Q. Loaded? A. Yes Sir.

Q. They usually were, were they not? A. Yes Sir.

Q. What was the Character of the bottom of the river then? A. the bottom of the river was - I called it a white Sand - a smooth white Sand bottom.

Q. They would get stalled in there at times? A. Yes Sir.

Q. What was the ordinary depth of the water there in the Summer? A. In 1849 and 50.

Q. When these teams went through there? A. The water varied as to whether the tide

was out or in. There was a regular tide there at that time.

Q. when the tide was out what was its depth?

A. Well it was not more than between two and three feet.

Q. Now that point was about near where the bridge now is? A. yes Sir, just about.

Q. About opposite Seventeenth Street. A. opposite Seventeenth.

Q. How far is that this side of Brighton?

A. This side of Brighton?

Q. Yes, how far down the river is it from Brighton?

A. I think it is about four miles.

Q. Then the river was not navigable at low water above that was it? A. It was not navigable at low water, no Sir. it never was since I knew it. It was not navigable at low water I have travelled on steamers

there in 1853.

Q It has never been navigable in low water to your knowledge

A. No Sir Ques. further than a few hundred feet above the mouth & there were ships went into the mouth or vessels went into the mouth of the river? A. I saw vessels in the mouth of the river in 1849 at the mouth.

Q. There was a deep place in the mouth where vessels could go up? A. They were there in 1849.

Q For a short distance - how far? Three or four blocks?

A. Well I didn't notice particularly, but I saw them tied in the mouth of the American river and where the two join together, that and the Sacramento -

Q. Now, the land right above the bridge, the bottom land there is it not covered to a depth of from

One to two feet or something like that, with a light yellow deposit usually called Slickens?

A. Right at the bridge?

Q. Yes. Above the natural Soil, isn't there a light yellow deposit that is usually called Slickens? A. It has been depositing there for the last ten years

Q. It has been depositing?

A. Yes.

Q. This last winter and also within the last two or three years there ~~has~~ is more or less sand blown —

A. (Intg) about four years ago the sand commenced coming in

Q. The sand commenced coming in? A. Yes Sir.

Q. And there is some streaks and rifts of sand on that now ~~now~~ isn't that deposit which I speak of as having commenced some ten years ago or more, isn't that cultivated very extensively

up there to hops and other products? A. That Kind of Soil that you speak of is Cultivated below where I live, between that and Marysville on the Marysville road but as Hop Town I don't know whether there is any of that deposit or not. I believe there is though. Some but I could not state whether there is much of that deposit there or what they call Hop Town where they raise these Hops-

Q what does that Kind of land there rent for per acre? that bottom land where this deposit is on?

A. I don't know except from hearsay what they pay for the land I hear that they say that they pay \$20. an acre a year for hop land.

Q The land that is Cultivated near the Marysville road that you just spoke of

What is that Cultivated to ?

A. I think they pay ten dollars an acre -

Q. What is it Cultivated for ?

A. They raise potatoes on that.

Q. Those potatoes are raised on the deposit that has been lodged there by the river since 1849. ? Is it a deposit which has been lodged there since you came here in 1849 ?

A. Yes Sir. The original Soil. if you dig down. I will say this, that the land is very level, there is hundreds of acres there that is level, and at almost any point you would have to dig down from one foot to probably two feet before you would strike the old Soil that was there in 1849 and so.

Q. And it is in this Soil that overlays that old Soil in which they grow the potatoes ? A. Yes Sir

Q. In Larues place he had

about how many acres of bottom land? A. who is that?

Q. Larue, A. I think his place that he cultivated about 150 acres.

Q. His house was erected on the high land adjoining wasn't it? A. yes sir

Q. which overlooked this bottom? A. yes sir.

Q. Now isn't that bottom covered at this time and hasn't it been covered for years past with a sedimentary deposit from the American river to a depth of from six inches to a foot?

A. There is places on there where there is not a bit of sediment at all, the old soil is there yet.

Q. I know there are some places where there is nothing but sand ^{on the margin of the river} but I say, isn't that bottom generally covered with this sedimentary deposit this fine material? A. This Larue

place. I think there is not much on that place

Q. What? A. There is not much deposit. I don't think on the Larue place

Q. There is not much deposit?

A. No sir. There is places where there is some, but as a general thing the Larue place as I have stated two or three times is partially protected by this Brushy Lake as it is called.

Q. Brushy lake is just above Larues place? A. No sir. It lays right along side of it.

Q. Right in front of it?

A. Right between them and the American river.

Q. And it protects this low bottom from the deposits coming from the American river to a great extent? A. Certainly.

Q. That is from the Coarser deposits ^{but leaves finer deposits} to some extent?

A. There is not much deposit on that place, not much; there

is some.

Q. Isnt there a good deal of land on this place that is alkali? A. Yes sir

Q. Doesnt that Come from the deposits that have been left there, or was it originally subject to alkali?

A. The Larue place I would state to you, that if you would go out there opposite the Railroad Corral -

Q. [Intg] Well, let me ask you now, was there alkali on Larues land before the river commenced bringing down Sediment? A. There was some

Q. Well, is there more or less now than there was before? A. He raised splendid Crops there in Early times He raised larger Crops than they Can -

Q. [Intg] I am asking you the question whether the alkali is more extensive now than it was during the years from 1850 to 1860? A. There is

a great deal more alkali
now than there was at
that time.

Q What produces that?
A. I Cant tell.

Q It dont Come from the
Sedimentary deposits because
you say there are none there?

A. It dont Come from the
Sediment. I dont know
why the alkali increases
but I know that it does

< ——— " ———

Here The Court takes a recess
until 2 Oclock P.m.

Office Worcester Feb 1881

Office W. Derby Clerk

By Wm Warrinton Jr Clerk

3^d George. Proceeing

In the Superior Court of the State
of California in and for the
County of Sacramento

The People of the State of California	}	Third day
vs		Thursday
The Gold Run Ditch and Mining Company	}	Nov 17. 1881.
		(P.M. Session)

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Winfield J. Davis
Official Reporter.
Sacramento Cal

Afternoon Session

I. N. Babcock

Re-called for further cross-examination
Mr Catlin

Q. Mr Babcock, when did you first observe that the American river began to change its color? A. From being very clear?

Q. Yes from clear, to reddish or yellow. A. I think it commenced getting rily about 1852-3, along there.

Q - 1852 or 3, you say?

A. Yes Sir, began to discover that the water was a little rily.

Q. Did it gradually increase in getting rily from year to year? A. It did not very fast.

Q It gradually increased?

A. You could discover that it was more rily as the years passed along.

Q. Was it pretty muddy or rily up to say, about

1860, before the big flood?

A. It was not as rily before the big flood as after

2. I know but was it high colored and rily at that time? A. It was quite

rily, I think, in 1862, considerably rily in 1862.

2. Speak a little louder!

A. It was considerably rily but we used the water for drinking purposes prior to that time.

2. I know you have stated that, but its condition as to being rily and muddy increased from year to year but after 1861 and 2, it increased more rapidly.

A. Yes Sir

2. Continued to do so up to the present time; that is what I understand. Now, prior to the big flood of 1860 had not those bottoms on the North side of the American River including a portion of the bottoms on the Morris Grant ^{where your} lands

are situated and so on down to Sacramento been frequently overflowed in winter? A. They were

overflowed in the winter of 1849 and 50 and the winter of 1852 and 3, if I recollect

2. Were they not overflowed in the spring of 1851? In March and April 1851?

A. No Sir I think not

2. Are you sure about that?

A. I am pretty sure about that.

2. Was not this city flooded in March and April 1851?

A. I think not.

2. Was it in 1850?

A. It was in 1850, 1849 and 50.

2. Now, the roads that led out from the bridge, one of which goes up in the direction of Auburn and another in the direction of Marysville, were they not overflowed? A. In what years?

2. Well different years prior to 1860? A. They were overflowed

sometimes. Yes Sir.

Q. That obstructed the travel for the time, did it not?

A. Yes Sir

Q. Those roads after they crossed the river, went over very low ground for a little ways until they got upon the red land?

A. Yes Sir

Q. When they got upon the red land, they are out of the reach of the overblown are they not? A. Yes Sir

Q. After you cross the bridge and going the shortest cut to the red land, or high land, how far is it

A. To the ~~to~~ red land?

Q. Yes. A. It is not to exceed half a mile

Q. Is it a quarter of a mile? A. I should think it was, between a quarter and a half

Q. You think it would be between a quarter and half a mile? A. Yes

Q. And that distance is

what you called bottom land
 A. Yes Sir

2. That quarter or half a mile, whatever it may be, now, you spoke of the vicinity of Stop Town. Are they not raising hopes there now on land that has been covered from one to two feet deep or more by the sedimentary deposits?

A. I couldn't state positively with regard to that land. My impression is that that land overflowed in the big flood of 1862 and 3, or 1861 and 2 and deposited debris, but since that time it has escaped.

2 (Int^y) Has'nt it been overflowed frequently since then?

A. It has been overflowed but I think there has not much deposit been placed on the land.

2. You don't pretend to know how that is, do you about that? A. I don't

like to swear positively in regard to that land

Q. How far up the American river did these tides flow of which you speak?

A. I couldn't swear positively that I ever saw any tide above my place. I never have noticed it above there. But then the river was very nearly level above my place for a mile or so. But at my place, that is near the Lisle bridge, or it was called Lisle's Bridge at that time, American river bridge now: the tides, to the best of my recollection were from ten to eighteen inches

Q. And the river for a mile or so above was level?

A. Was comparatively level.

Q. A mile or two above?

A. Say a mile above, I think there was no noticeable fall.

Q. When did you first notice the cessation of those

tides? A. When did I first notice it?

Q. When did you first notice that they ceased?

A. I never noticed the tides much after the building of the bridge. I never noticed them so particularly.

Q. Well, what year was ^{that} when the bridge was built?

A. The bridge was built in the fall of 1851, but there was tides after that time, because there was - after the bridge was built there was teams still forded the river in low water.

Q. You didn't notice them much after that?

A. Not so much, no sir.

Q. Was that because they were not so high? A. Well I don't know, It was because I wasn't in the water so much.

Q. What? A. Because I didn't have to go into the water so much as I did

previous to that time

Q. You were living right on the bank of the river there near the bridge?

A. Yes Sir

Q. Saw the river every day

A. Yes Sir

Q. And if there were tides there from a boat to 18 inches why, you would be apt to observe it would you not?

A. Well the tides continued on for say until 1855 or 6

But my attention was not particularly called to the river from the fact that we crossed on the bridge. The travel was on the bridge, after the bridge was built.

Q. Well, then as I understand you, you did not observe any tides there, particularly after 1851 and 2? A. Never, noticed them particularly, no Sir

Q. Do you know of any reason why the tides were any less there in 1854 or 5 than they were prior to that time?

A. I don't know that there were any less but I say that I didn't particularly ~~notice~~ notice them so much after the bridge was built.

2. You say you bought a small piece of land there on which you resided?

A. - Yes Sir

2. Where did you buy that land? A. - I bought the land in 1863 I think

2. Of whom did you purchase it? A. J B Haggins

Q. - ~~Of~~ You bought it of Mr Haggins the owner of the rancho del paso? Ans. - Yes Sir

2. You bought it for the purpose of carrying on the kind of agriculture that you had been in the habit of carrying on there before?

A. Yes Sir I wanted to get the title to the land. The land had been in dispute for a good many years there. Some claimed that 'Norris' title was good and others

thought it would not prove good.

Q. Well at this time had there not been some debris deposited there from the overflows from the big over flow of 1861? A. Not that

I ever noticed prior to the time I bought the land

Q. None prior to the time you bought it? A. No Sir

Q. Didn't the big flood of December 1861 deposit any debris on it?

A. It didn't on my land. It did deposit some. Let me see; No it was the flood of 1868 that brought in the debris there on what was called the Harney place. That was in 1868

Q. I am not talking about the flood of 1868 but 1861 & 2 December 1861 and January 1862 very heavy floods. A. I don't think there was any debris brought in by that flood.

2. Was not the whole country overflowed there then

A. I think not. I think there was no debris brought in by that flood

2. Were not these low lands overflowed in 1861 and 2?

A. Yes Sir they were overflowed but the sloughs would bill up and when the waters went away there was no debris there prior to 1862. That is the best of my recollection

2. When was the first debris deposited on your land?

A. No Sir, not in 1862

2. When was the first debris deposited on your piece of land? A. The first was in 1868

2. Now in these high waters don't the Sacramento back the waters up for several miles up the American river?

A. Yes Sir

2 And the waters during the flood which covered these

A (intg) I will

state this: that when we have very heavy rains the American river usually rises about 24 hours before the Sacramento and the current in the

American is very swift. After say 24 hours the Sacramento will check the velocity of the current in the American. That is generally the case.

2. The waters mingle together and back all over these bottom lands do they not?

A. When the Sacramento rises it checks the velocity of the American.

2. And the back water extends clear up to Brighton doesn't it? A. I could not say how far it backs up.

2. You never have been up there to see? Are you in any way familiarly acquainted with the lands above up for four or five miles above here?

A. Above Brighton?

Q. No from here up to within two or three miles of Brighton

A. I am very well acquainted with the land up as far as Brighton on both sides of the river

Q. Then can't you tell whether the back water goes up over those lands during the high freshets

A. I think the highest water we have in the Sacramento probably does back up as high as Brighton. I am positive.

Q. You say the American usually rises first

A. Yes Sir

Q. Doesn't it frequently happen that the Sacramento gets up to its highest point first before the American does?

A. It is not very often

Q. Didn't it do so last winter?

A. I am not positive about that - I think they rose very near together though.

2. Speaking of the canal which you spoke of this forenoon were you not speaking of another canal besides the one by which the American river is carried directly into the Sacramento? A. The canal I speak of is above what is known as the American river bridge.

2. Above the American river bridge. A. Yes Sir

2. The confusion that arose here was from that back I suppose. I was inquiring about the canal as it had sometimes been called.

A. [Intq] When you were inquiring I supposed you meant that canal that is above the bridge. That is the canal I thought you referred to this morning.

2. The one away above the bridge. A. Yes Sir

2. That canal don't empty into the Sacramento river? the one that you were speaking of

A. No Sir it simply cuts off the head. It starts from the American river

Q Cuts off the head in the American river. A. Yes Sir

Q. That is the one that is filled up with sand?

A. Well there is sand in both of them

Q Well when you spoke of the sand this morning you were talking about that canal were'nt you. A. Yes Sir

Q. At the mouth of the American river where it discharges the very point here where it discharges into the Sacramento. Just describe whether there is any apparent difference between the level of the one river and the other at low water

A. The American is high enough so as to make the water run into the Sacramento; that is about all

Q. Well it is just a smooth sheet only the American runs into the Sacramento

A. Yes there is no fall there that is, no fall, there

Q. Do you know what the depth of the American river is at its mouth there?

A. It is about between two and three feet: maybe four feet

Q. The depth of the Sacramento you don't know as you stated

A. No Sir

Q. You say Mr Lame had a large peach orchard: how many acres did you say he had in peaches

A. I think he had over a hundred acres.

Q. A hundred acres in peach trees?

A. In peach trees yes Sir.

Q. That was up to the time of the big flood in 1862?

A. Yes Sir

Q. Now I will ask you whether as a matter of fact the general abandonment of cultivating peach trees in those orchards there and

in the vicinity did not result from the fact that the business was overdone and that there was no market here for peaches since that time?

A. I will answer that question in this way. I know of quite a number of persons who are engaged in the fruit business. That would have been very glad if their trees had lived. But their trees died and they couldn't help themselves.

Q. What is the ordinary age of a peach tree? its useful age? its useful bearing age. A. I couldn't state that I couldn't tell.

Q. Your men were engaged in cultivating them were you?

A. I have had peach trees but mine was killed by water.

Q. Now, when was that same orchard first set out? That peach orchard? A. I think it was set out in 1858 or 9.

Q. 1858 or 9? A. I couldn't

state exactly: Same where along
1857 or 8 or 9: Same where along
there

2. Wasn't it in 1852 or 3?

A. It was in the 1862 flood
after the 1862 flood, that he
sold such a quantity of
peaches in San Francisco.

They were in good bearing
order. Probably they were
five years old in the spring
of 1863. They were probably
about five years old, maybe
not so old, I couldn't say.

Mr Cadwalader This is H.M.
Larue, isn't it?

Mr Cutler Hugh Larue. We
all know him.

A. Hugh Larue is the one
we are speaking of.

2. When did Mr Larue
abandon the cultivation of
peaches there? You say these
trees were five years old
at the time of the big flood
and they were not injured
any by the big flood, as I
understand you?

A. No, he had a heavy crop that season

2. Now, when did he abandon them, if he did at all, or when did the peaches die of old age, either

A. I don't know at exactly what time he quit the business there, but I think it was after 1870. I know that he was still there in 1868 and I think he lived there a year or two afterwards and moved away.

2. You say his land was not unblown by the debris? A. There was not much debris deposit on Mr Larnie's land.

2. There was not much debris deposit where his orchard was? A. No Sir not much

2. Then what caused the death of the peach trees? Didn't he abandon that business, and go to farming up in Yolo County, a different

class of farming: raising grain

A. Yes Sir

Q. Abandoned that business because it was no longer profitable?

A. I don't know the reason why he left it; but he did leave it and went to raising grain in Gila County

Q. Was his land on the El Paso grant? A. Part of it. It

was part of the El Paso ranch

Q. He didn't own the title did he? A. Yes Sir.

Q. Did he buy the title?

A. He bought the title from Lewis and Haggins and afterwards sold the land back to them again. At the time he went to raising the peach orchard he went there under Samuel Norris.

Q. Well, that was long before 1859, wasn't it? A. That he put out the orchard

Q. That he was raising peaches there when Sam Norris was there?

A. I stated that his heaviest crop of peaches that he sold was after the 1861-2 blood

2. When did he commence? when did he first plant the orchard, is my question?

A. Well, I stated that I thought it was about 1857.

2. Wasn't it earlier than that?

A. It might have been.

2. Wasn't it in 1854 and 5?

A. I couldn't say positively what year.

2. You don't know the reason why he quit that business of carrying on that orchard?

A. Well, I think his trees died, and he couldn't make anything at the business any more.

2. Hadn't he quit making anything out of the business before the peach trees died? Were they not about fifteen years old at the time they died?

A. I can't tell you how old they was.

2. You don't know how old they were? A. No Sir, I do not.

2. Do you know enough about

the business to answer me this question: whether a peach tree, after it is about eight years old has not then passed its useful bearing age?

A. At eight years?

Q. Yes. A. I think it is right in its prime at eight years.

Q. Then it is in its prime?

A. I think so.

Q. Well, when does it begin to decay? A. I couldn't state that.

Q. You know very little about the business?

A. I will acknowledge I am not very much acquainted with the fruit business. I have never been engaged in it.

Q. You stated that the current of the river went about 15 miles an hour: how did you ascertain that? A. I stated to the best of my judgment I should think it would run that fast. I came to the conclusion in this way: they

say that fast steamers will run, the fastest is from fifteen to twenty miles. They have been known to run twenty miles: and when the American birst rises, a person looking at floating wood passing the river - it seems to be running with as great velocity as any steamer I ever saw run.

Q. That is the way you came to that Conclusion?

A. That is the way I made up my mind, yes Sir.

Q. Now you are asked to tell what proportion of earthy matter or mud the water carried during the flood, and you made a guess that about twenty per cent of it was mud, I think. How do you get at that?

A. I came at that in this way: I have frequently had the water come in my house. When there would be a rise of water it would come in the house

probably two feet deep, and when the water would go out it would leave a sediment say, from three to four inches thick after it would go out.

Q. It frequently used to come up into your house about two feet? A. From one to two feet, yes Sir.

Q. And when it retired it would leave a sediment of how much? A. Three or four inches thick.

Q. Now wasn't that little current of sediment that was brought in by the current produced by the water coming in through that front door? A. It didn't run through. The doors were shut.

Q. Didn't come in through the doors or the windows, then?

A. It got in through the cracks in the door; in places it would raise

Q. It would leave a sediment

of how much? A. From two to four inches of sediment, it would leave. I never measured it exactly, but we would have to shovel it out with a shovel to get it out of the rooms.

Q. Then you never measured it. When were these frequent occasions you speak of?

A. There was in 1868. I remember particularly.

Q. Any in 1867, 65 or 66?

A. I don't remember so particularly about any season except it was 1868.

Q. How was it in 1861 and 2?

A. Well, at that time the water wasn't so thick with mud. It didn't have much mud at that time.

Q. Didn't the big flood of 1861-2 bring down a vast amount of debris, lodge it in the form of bars in the American river and on the low land?

A. At that time it was

mostly confined to the river. If it came down it staid in the river. It didn't come out on the soil like it did afterwards. There was some bars formed in the river but the debris that lodged upon the land was mostly since 1862.

2. Well didn't that lodge a great deal on the land? On the bottom lands?

A. In 1862?

2. Yes. A. I didn't see it

2. Then the big flood of 1861-2 didn't lodge any debris upon the low land about here?

A. I don't say that it didn't lodge any. I say I didn't see much of it.

2. Whereabouts are Smith's gardens located? You have spoken of them, how far are they?

A. From here?

2. Yes, with reference to thirty first street? A. I should think they were a quarter or half a mile above

Thirty first street

Q. Above or below

A. I think they are above

Q. Well, don't they extend in below too? A. Below

thirty first? I think not, Smiths garden.

Q. The old levee's that were around the City prior to 1861 and 2 inclosed the Smiths gardens inside the levee, did they not?

A. I think they did

Q. The present levee - the one built first after the big flood of 1861 and 2? That fences him out, does it not?

A. Yes Sir

Q. The Smiths gardens?

A. Yes Sir

Q. Now hasn't that circumstance the fact that the levee fenced him out, been the immediate cause of the ruin of Smiths gardens by causing the, obstructing the free passage of the water over the low land and causing the deposits to lodge on his garden?

A. I think the cause of the sand being there was because the river was full of sand

Q. Now come the sand to get there; what caused the sand to stop there; wasn't it the fact that this big levee was heasted right up so as to prevent the sediment from passing on down, Cause it to stop there?

A. The same as though the levee had been close to the levee; it would have increased the water in place of chesting it

Q. The present levee how near does that run to the bank of the river? I will commence here from its starting point where it turns here and goes on up?

A. I have not been at Smith's Garden for about two years. I couldn't state now how close to the river the levee was.

Q. Oh, the levee extends all the way up to Brighton, doesn't it?

A. Yes sir. I understood you to ask me how far it was

from this levee to the river?

Q. Yes, you answered it by saying you hadn't been there for two years and then stopped.

A. The last time I was at Mr Smith's garden the river was continually cutting the soil away and was going towards the levee.

Q. Will you now answer the question how far it is from the levee to the river?

A. At the present time; I couldn't state for I have not seen it for about two years.

Q. How was it two years ago when you didn't see?

A. At that time the last time I saw it, I should think it was a quarter of a mile.

Q. What street does the levee go out on, what street here in the city running down to the eastward?

A. From Thirty-first street to Smith's garden I should judge was between a quarter and a half a mile.

Q. You did not understand my question. What street does the levee run upon in going out of the city The north levee?

A. It comes on A street, I think

Q. On A street?

A. I think it does

Q. Well, how far does it run out on that street?

A. I think it runs to Twentieth street. I never noticed that particularly

Q. (Intg) Don't it run pretty close to the old bank of the American River, the bed of the old American River?

A. At Robels' tannery it does, what used to be called Robels' tannery near the Fair Grounds.

Q. That is about Twenty-fourth street?

A. Yes sir,

Q. It is very close to the bank of the old American river, then the American River takes a bend there?

A. It don't run close to the

original bank of the American River

Q. Well, how close then to the old original bank where it formally ran?

A. Where the river used to run in early days, it must be from the levee out there something three or four hundred yards.

Q. A strip of three or four hundred yards to there. That land you say is now covered with

A (Intg) The most of that land I speak of is washed away entirely

Q. How much of it is there that is not washed away; what is the width of it that is not washed away?

A. What from the levee to the American River?

Q. The old American River

A. A very narrow strip there.

Q. State how narrow give

us some idea?

A. Well, it is probably from four to ten rods. I couldn't tell. It is not far anyway.

Re-direct Examination
J. N. Babcock.

Mr. Cadwalader Q. You mentioned to Mr. Cattin that there was some overflows of the County roads in this township before 1860? A. Yes, sir.

Q. I'll ask you how they compared with the overflows that have occurred since that time?

A. Well the overflows since have been more destructive to the roads. In early times when we had an overflow, when the water went down, the roads were not destroyed.

Q. Are those roads raised any considerable height?

A. Yes, sir.

Q. How much since 1860?

A. Since 1860 I have not measured it, but I think that the road is raised from the bridge out at least six feet.

Q. On both sides of the river? A. Yes, sir, probably, not so much as this, but in places it is over six feet; now for instance just the other side of the levee there is a bridge there; I suppose it is over six feet from the soil here, from the natural ground say fifteen years ago.

Q. Did the overflows of the road prior to 1860 interfere with travel?

A. At the time the water was up it interfered.

Q. Well, for how long a time?

A. I couldn't state how long, but didn't interfere like they have for the last few years.

Q. Although they have been

raised since then six feet?

A. In places? Yes sir.

Q. Mr. Catlin asked you about some potatoes being raised on the bed of slides; where was that place?

A. The place that I spoke of is what is known as Meister's ranch, and the widow Judge has a ranch. It is land that the Sacramento River backs in from one side and there is two creeks, there is the Arcade Creek and Dry creek that comes in from the east and empties in on the other side, and the two waters meet there.

Q. How far is this piece of land from the Toll house?

A. It commences about a half a mile, a little over probably, a half a mile from the bridge, on the Marysville road.

Q. What kind of land, bottom land or high land?

A. It was bottom land. In

1849 it was covered with grass, what is called and known as blue joint grass. There was fine meadows there

Q. How large a field was there of these potatoes?

A. I think that Mr Meister has about two hundred acres rented to Chiramen, and Mrs. Judge. I think has forty acres rented.

Q. How long had this sediment been lying there before it was used?

A. The best of it came there I think in 1868.

Q. When was it used to grow potatoes?

A. They had been raising potatoes there about five years.

Q. 1868? - five years would be 1876. It had been there from 1868 then to 1876, had it?

A. Yes, sir, about that time.

Q. How deep was this sediment?

A. I think it will average from one to two feet, and

some places more

Q. Were they able to plow through it? A. No, sir

Q. It was deeper than the plow would reach?

A. Yes, sir.

Q. Where did this stuff come from down Arcade Creek?

A. I think the good share of it came from the American River, and from Arcade and from Deer Creek.

Q. Arcade Creek runs through what is known as the Horri's' grant, does it not?

A. Yes, sir.

Q. Arcade Creek is the northern boundary of the Horri's grant, is it not?

A. No sir, it is not bounded by a creek.

Q. Well do these creeks run through alluvial lands?

A. Yes, sir.

The lands are cultivated for the last ten years, last fifteen years, the creeks run through what is called a

sheep ranch, sheep ~~ranges~~ on
the land

Q. This stuff in which
the potatoes were raised was
the product of three of these
creeks?

(Question objected
to as leading and not pressed)

Re direct Examination of J. A. Babcock

Mr. Catlin - Q. You mean to
state that the deposit that
was on the land you
spoke of on which these
potatoes were raised came from
Arcade Creek?

A. I state that that
deposit —

Q (Indg) I ask you now
do you mean to state that?

A. That that deposit came
from those creeks?

Q. Yes, whether any material
portion of it came from Arcade

Crest? A. I state this that those crests whenever it comes and rains they come right in upon this land, and the American comes down there and the Sacramento comes up, backs up there

Q. Well does Arcade Creek when it has any water in it, does that carry any debris?

A. The Dry Creek does, but I don't think Arcade does, I wouldn't be positive about the Arcade Creek but this Dry Creek has debris in it.

Q. Don't you know that Arcade Creek does not carry any debris, any more than any other creek naturally does? ^{that goes to mining on it?}
A. Well, I stated I didn't think that the —

Q < Intg > Well, why should Dry Creek carry anything?

A < Contg > Well, they call it slickens out there.

Q. There is mining on the head of Dry Creek, is there?

A. I suppose so

Q. Well, you say this deposit comes from Dry Creek?

A. I say those creeks, those two creeks and the American River and Sacramento all nut-

Q. Will you answer the question? I know the water is all over it, but where did ~~these~~ these slickens or this deposit, whatever it is, came from; do you mean to state here to this Court that it comes from from Dry Creek?

A. Part of it comes from Dry Creek

Q. What part of it?

A. I couldn't state what part, but I think the majority of it comes from the American River

Q. There is one question I am not sure I understood you about, as to the time when the water was two feet deep in your house and when it deposited some two or three inches of sediment

or slicstons, whatever it is, about when was that did you say?

A. 1868. I remember more particularly than any other year.

Q. That was in 1868?

A. Yes, sir.

Q. Has it ever been in your house since and deposited any slicstons there?

A. After that year—

Mr Hart (Intg) Counsel has examined him about that once before and he should be restricted to the same rule he wished to to have imposed on us.

A (Contg) I will state I built a mound and moved my house built a mound six feet high and put my house on it and since that time there has been no sediment in the house

Mr. Cadwalader. Q. This Meister ranch you say was a half a mile north of the American River?

A. Yes, sir, it is on the Marysville road.

Testimony
of
A. S. Greenlaw

Called for plaintiff Sworn

Mr Hart - 2 - Mr Greenlaw where do you live?

A - On the American river about a half a mile north of the city.

2 - When did you settle there?

A - I settled there in 1860

2 - When did you first come to California?

A - I came to California in 1835, April.

2 - Where did you settle in 1835?

A - I went to the mines on first coming to California.

2 - When did you settle in Sacramento County

A - I settled in Sacramento County in the city of Sacramento in 1836, fall of '36

2 - Do you know the American river?

A - I do sir.

2^d How long have you known the American river?

A. I have known the American river from its mouth extending eastward beyond Smith's Garden, a distance of three or four miles, since the fall of 1836.

2^d At the time that you first knew the American river, what was the character of its channel?

A. The American river flowed through well defined banks, I should judge about four hundred feet wide where I reside perhaps wider to the mouth. It might be a little more than four hundred, about four hundred feet with abrupt banks probably at low water twenty feet banks.

2^d Twenty feet above the surface of the water at low water mark?

A. Yes sir, there were settlements upon the banks.

2^d Any trees growing on

the banks of the stream and if so what kind were they?

A. There were on the north bank of the stream there were several groves of very fine oak on Mr. Milgates place particularly there was a very beautiful growth. The people from Sacramento occasionally held picnics there, also on Mr. Bannans place, near the mouth of the American river, there are oak trees there now that are several feet through. On this side for a distance of three quarters of a mile there was a slough alone made out of the river and emptied back again into the river leaving a kind of island. The bank of the river proper was south of the island. On this island the principal growth was cottonwood and willow, principally willow at that time. When I became acquainted with that country a great

portion of it was cleared up but on the old bank, what we call the true bank of the river, what I call the true bank of the river there were several oak trees

2- That is on the south side?

A- Yes sir, there was one that was on the corner of my lot, a very large tree; when it was cut down it made several cords of wood. There were also large sycamore trees that grew on the banks of sloughs that passed through the land, south of the American

2- What was the comparative height of the banks that is the height of the banks as compared with the surrounding country?

A- On the immediate bank of the river it was higher, somewhat higher than it was as it receded back. On the South side the banks receded

after you strike the true
 bank; from the true bank
 of the river this side of
 the slough the land receded
 back to lakes that lay
 between that land and the
 city of Sacramento, where the
 city of Sacramento now is,
 or the railroad now is. There
 were several lakes there. There
 was Willow lake. I think
 those lakes are distinctly
 marked on the map here.
 I refer to a lake ~~here~~ near the
 mouth of the American river,
 where now the railroad shops
 are. I refer to a
 lake from Fifth street, or
 you may call it a lake or slough,
 it was a very
 wide slough in places, ex-
 tending from sixth street up
 back of Mr. Ryderson; another
 branch extending about ninth
 street north, and so angling
 out as it approached this river
 bank that I speak of. The
 land sloped off in the

direction of those lakes or the sloughs. The banks of the sloughs were some ~~what~~ higher in places as well as the bank of the river.

2- So that by receding as you say by becoming lower in altitude as you went from the river, it formed a basin away from the river, the same as the Sacramento river does

A- Yes sir, and that basin opened and by an abrasion in the old Sacramento levee. The first levee that was built around Sacramento, as I am informed ran out on the bank of the American river.

2- What was the character of the bed of the river itself?

A- At what time?

2- In 1856 when you came here

A- In 1856 the river was

muddy. Of course I couldn't see the bottom of the river; ~~what~~ where the water ran over it, it was muddy and kind of a slimy bottom.

That is, where it was seen at low water, as the water receded, there was a kind of slime and mud, coating of mud along the river bank.

2- Was it what they called slickens or sand?

A- Well it was a kind of mud. You would see that as the water receded.

2- What was the color of the mud that was in it?

A- A kind of yellowish color.

2- What was the character of the lands and either side of the river so far as you speak of it four or five miles up the river?

A- On this side of the river the lands were - I will divide the river in

sections so it may be clear. The lands on this side of the river it was a very rich alluvial soil, very easy to cultivate, and produced enormous crops. I never saw better land to produce and I have seen considerable land in California. I never saw better land than the land lying south of the American river.

2- On its immediate banks do you mean?

A- I mean throughout the whole extent of this tract of land except these lakes.

Mr. Catlin. 2- Which tract of land are you speaking of?

A- I am speaking now of the land south of the American river extending from the Sacramento river two miles and a half; you said east?

Mr. Hart. 2- Yes and how far south?

A - Extending from the American River to these lakes or to the present hills of Sacramento, B street -

Mr. Catlin 2 - It embraces the city of Sacramento?

A - Yes sir, to the present - to the occupied streets of Sacramento lying that side. The sloughs were cultivated in a late crop. Cabbages, turnips and such things for the Sacramento Market.

Mr. Hart. 2 - The beds of the sloughs?

A - Yes sir, down to what we would call, about fourteen feet above high water mark in the Sacramento. The water that-filled these sloughs at that-time came out of the Sacramento river. There was no other water that-came in on to this body of land except what-backed up from the Sacramento. It was entirely protected as regards the American river by the old Sacramento

levee.

2- What height was that levee?

A- Let me just -

2-(Int'g) Well go on, get through with that subject.

A- This levee previous to the time that I knew it, or about that time, was broken south of Sixth Street by the encroachment of the American River into the banks and it came into this lower slough.

The water that came into this basin always backed up from the Sacramento and the mouth of the American river and came up into this basin.

The levee from sixth street followed this bank out-side, or north of the city, north of my place about forty rods this side of the American River

proper, continuing east until it intersected a street at twenty fourth street, that was the direction of the river. This levee was built upon this bank along the slough

The general height - of that levee I think was about two feet; it looked as though it was thrown up with shovels and the dirt was taken from the inside, and in regard to the breadth it was just wide enough to drive a wagon probably eight feet. In 1861 the round top was cut off; a man was hauling some wood there and he levelled off the top and used it as a wagon road. It was about that width and about two feet high.

2- What was the character of the land on the other side of the river on the north side

A- The land on the north side along the river is very much like it is on this side.

2- It was?

A- Yes sir. Very much the same only there were more

large oak trees on that side
I think the bank on that
side was if anything
rather higher than it was
on the south side

Q- State whether or not
during the time you speak
of in 1855-

A- (Lut.) 1836. I should say
Q- 1856 the natural banks
of the American river were
sufficiently high to carry the
water coming down the
stream in ordinary seasons?

A- Yes Sir. Yes Sir I visited
up to 1856 several times
a week; that is, the farms
there and along the bank
of the river

Mr. Catlin. Q- The river
we are speaking of

A- The American river
both at high water and low
water; I have noticed it
at all seasons and have
always seen it inside of its
banks up until the year 1862

Mr. Hart-Q- Were there any

or if any, many settlements or settlers residing on the lands that you speak of lying between the city of Sacramento and the American River?

A - Yes Sir. I can tell you the number by reflection.

Q - Well, you ~~can~~ need not be very accurate about that.

A - Well. I will say there were twenty.

Q - Twenty settlers?

A - Yes Sir.

Q - Within the five miles you have mentioned?

A - Within the two miles and a half. They averaged from ten to a hundred acres, from ten acres to a hundred.

Q - Do you know whether or not those lands produced crops each year?

A - Yes Sir, there never was a failure of raising a crop on that land any year until recently.

Q - What kind of crops did they produce?

A- We had fine orchards of peaches, pears, plums, cherries, nectarines, all kinds of tree fruits that is commonly raised in California, outside of tropical trees and vegetables of various kinds

Q- How?

A- And different vegetables garden vegetables, gardens

Q- Were the lands on the opposite side of the river occupied by settlers at that time?

A- Yes Sir.

Q- Very many or only a few?

A- The lands were in larger holdings on the other side than they were on this side than they were on this side Mr Bammon at the mouth of the river, he occupied quite a large tract of land. Mr Malden, Mr. Milgate, Mr. Lee, Mr. Babcock, Mr. Gilbert

Q- What was the nature of the current in the stream at the time you first knew the river, the American river?

A- Do I understand your question?

Q- What sort of current was there in the stream in the American River in 1856?

A- Well, at low water, there was a very little current, it moved along slowly.

Q- Well, during high water itself?

A- In the high water I have seen the banks full there walked along the banks where it was full and noticed how smoothly and strong the current seemed to move along. It moved along with a smooth strong current.

Q- Within the banks?

A- Within the banks - yes sir

Q- Since that time where have you resided continuously, if in any one place?

A- Since 1860?

Q- Yes

A- Since 1860 I have lived continuously on my place. I was away one season

but visited the place frequently during the time I was away.

My family moved from there once again.

Q - Have you noticed any changes in the bed of the river?

A - I have seen

Q - What are they?

A - I have noticed the fillings up of the river with sand, the raising of the bed of the river and in many places the abrasion of the banks and the river has been changed.

Q - When did you first notice any change in the bed of the river?

A - The first material change that was noticeable in the river that I noticed was - that is in the filling up of the water of the river, you have reference to, was after the flood of 1862, began to see bars there in 1862.

Q - You saw that the changes were made after the

flood?

A - Yes Sir. I saw that there were sand bars; there had been changes made in the river previous to this, by the cutting away of the bank in several places.

Mr. Patton - A little louder I did not hear that last

A - I say there were changes in the river previous to this by the cutting away of the bank; it had cut out here at Rebels Livery and it also cut in as I spoke of at Sixth Street. There was an old saw mill there and a bank that was moved

Q - Now what was the extent of the change that you noticed in 1860? You say it was the filling up with sand?

A - There was not much filling up till 1860?

Q - I mean 1861 and '2 - after the flood of 1861 and 2.

A - Yes Sir

best
42
43

2- What was the extent of the filling up at that time?

A- Well the banks at low water, after the water went down late in the fall, we noticed the banks of sand extending into the channel, that is a portion of the channel being filled with sand banks.

2- Could you make any estimate of the amount of filling up that year?

A- I don't think I could truly noticed - not very much.

2- (Intg) There were sand banks that were noticeable there at low water mark?

A- Yes sir, they were noticeable up above Mr. Hollins place or Mr. Hubbard's place at that time, not very extensive.

Q- Have you noticed since that time whether there have been changes, and if so, how they have come?

A- I have

Q- Well, what were they?

A- I have noticed that in 1867 and 1868 when we had very high water in the American it brought down a large amount of sand and other debris covering up the lands and filling up the sloughs, and filling up the river bed.

Q- I ask about the river bed. I want to confine you to that

A- I say filling up the river bed with sand

Q- To what extent did it fill it up that year?

A- Several feet.

Q- Have there been any changes going on since that time and if so give the sum total

A- There has been a continual filling up of that river

the whole width between the banks

Q - What with? A - With sand

Q - What difference has it made in the carrying capacity of the river?

A - It has greatly diminished the carrying capacity

Q - How much?

A - The banks of that river formerly from low water were about twenty feet. The river bed has filled up to the present time from the former condition, above what was low water mark at that time, sixteen feet; I do not mean sixteen, but fifteen.

Q - Fifteen feet above low water mark!

A - Yes. I should judge so ~~sufficient~~ Nearly sufficient. Now I had noticed this. Not by one year's filling but every year. Sometime there would be two or three years that apparently the water would

he washing out the channel
 It seemed to be washing out
 and the channel clearing its
 self. Soon after that Canal
 was cut through Babcocks
 place the water seemed to clear
 and the bar seemed to clear
 out some way. That was after
 the deposit of 1867-8: there was
 a great deposit at that time
 But for the last four years
 a great deposit at that time
 But for the last four years there
 has been a steady gradual
 filling up of the American River
 at least, at the bridge, there
 has been a filling of three or
 four feet. That has been the
 character of the raising up
 of the river

2- What difference in
 altitude is there now between
 the original natural banks
 of the stream and the top
 of this sand?

A- The American river
 runs in perhaps one third of
 its original breadth, on an average
 On each side of its

thread there are large sand bars extending. The river is not wide; it is confined to a ^{narrower} channel. These sand bars start off with a height nearly with the bank, the apparent height of the bank at the present time.

Q - Nearly as high as the bank?
A - Yes. Perhaps three or four ^{feet. The river proper} drops down perhaps that much below this where this thread runs through. In some places the sand bars are more shallow, and sometimes less.

Q - At your place how wide are the sand bars on either side of the river?

A - Right opposite my place a sand bar extends from the bank of the river to within less than one hundred feet of the opposite bank three hundred feet wide, a large heavy sand bar.

Q - On this side? A - Yes

Q - How wide is it on the other side? A - There the river is brown over to the north bank. Above that, between that and the bridge, there is a sand bar formed on ~~this~~ other side. That sand bar is not as high as the one at my place

Q - How wide is it?

A - Nearly the same width

Q - Standing where the bridge used to be, how far do you have to go through this thick heavy ^{coarse} sand before you get to the upper side of the City?

A - You go three hundred feet.

Q - Through willows and sand?

A - Well, that is sand. If you go through willows and sand etcetra, you go from the levee; if you wanted to go through sand and willows and that.

Q - I mean where the sand

is on either side of one off the garden road that they have constructed across where the old bridge used to be here or where the bridge is now.

A - You will start from the levee at Sacramento and walk one half mile on sand and you reach the American river.

I - That is what I understood, and then after you get across the American river how far do you go on sand again?

A - You go a quarter of a mile or half a mile that would depend upon the location.

I - That is, before you come to the bank on the other side of hard solid ground?

A - Yes. Let me explain. Since you asked me in regard to this thing. On the other side of the river the sand extends perhaps half a mile or more than a quarter of a mile. There is a slough that makes in there where water runs.

7
nearly the same round.

Sometime the sand is washed out of that to a certain extent and the mud or clay is left there. It is not quite as sandy next to that ridge. After we leave the immediate bank of the river there is more of a sediment or clay.

Q - Where does all this sand come from?

A - This sand comes from the mountains.

Q - Is there any soil that you know of in Sacramento County, in the valley where farming is done, that corresponds with the sand in this river?

A - I do not know of any. And right here, in regard to this matter I say this comes from the mountains. This sand that comes down is not the only material that comes down. There is also a clay, a kind of white clay, that comes down more frequently

of late years; and I have never seen anything of this character on this side of the mountains.

Q- When that gets dry, that white clay, what does it do? A- Where it lies in bodies it cracks and when it is powdered up it is very fine; it is as fine as fine flour?

Q- Does it adhere? Each layer adhere to the other below it? Or how is it?

Mr. Battin - We object to the question as leading.

Mr. Hart - There are some questions we have a right to make leading, and this is one. I seek to prove that this stuff is in cakes after it dries, that there is nothing like that in this valley, that it just falls off.

The Witness - If you ask me the character I will answer it.

Q- Well what is the character of it? I asked you that

question, but you did not explain fully?

A- I judge of the character according to its appearance. It is a white substance resembling clay. When wet it has a sticky appearance and is slippery to the touch. As it dries, the layers in drying curl up like a board, turn up at the sides. I have had layers curve on portions of my place perhaps one or two inches thick of that wet clay. There is another clay that is of a darker grade that after settling in the basins that cracks open. That is not quite as white as this. It is very much of the same character but not quite as white. Of the material coming down there is the sand but in former years a great amount of this debris that come down was of alluvial substance, alluvial soil. It was comparatively fertile. I speak of a majority of the debris that came down in 1862

That came on our land through
 the breaking of this levee that
 I spoke of formerly in ~~three~~
 different places, from my place
 up to the A street levee. There
 was filling of this material
 on my place, in places three feet
 deep. We cultivated that land
 and it produced good crops.
 On that same land we produced
 in 1864 as large a crop as we
 ever raised anywhere. In the
 flood of 1867 the debris came down;
 it was composed more of sand,
 a greater portion of sand.
 A great portion of our land
 was covered with sand and
 also with a sediment. The
 sediment that came down
 at that time we were dis-
 appointed in; it was not as
 fertile. We thought perhaps
 by a few years cultivation
 it would be better; but we
 were generally disappointed
 as regard the character of the
 sediment that came
 there —

Since then our land has been continually subject to overflows; there are very few years except where the water comes on us; and every year our land is rendered more worthless for agriculture by these deposits. To illustrate; on my place I never failed of raising a profitable crop until about four years ago. That is, it was not as good, but still it paid for the cultivation. The overflows for the last four years of this substance, have so poisoned the soil that this year there has not been the value of the seed, that was put into the ground reaped. The potatoes did not form and other crops failed to grow. That is as near the effect of this as I can give you.

2 - What has become of this piece of land that was at the point where the junction of the Sacramento and the American rivers occurs

A- How is that?

Q- What has become of the piece of land you spoke of, covered with timber and trees on the other side, at the junction.

A- At Bannons old place the trees still stand there. Along there I think there is not as much deposit as there is on one side. But as I rode through those oak trees the other day with Mr. Hull he called my attention to the debris or the little end straw that was ⁱⁿ the trees, and he said "Is that where high water was?" and I said "Most certainly."

Q- How high was it?

A- We had to stand up in our buggy to reach the debris that was in ~~those~~ ^{those} large oak trees.

Q- Was that land ever inhabited? A- Yes, that was on Bannons ranch.

Q- How high up from the

ground was that? how many feet? A- I should say it was eight or ten feet eight feet at least.

Q- How long has it been since the banks of the American river would hold the water that comes down during an ordinary season?

A- I never saw the water out of the banks of the river from 1856 to 1862. We had very high water in the spring of 1861.

Q- Have you seen any season since 1870 when it was not out of its banks? And if so what season?

A- I rather think 1876. It was a very dry year and I think the water did not get out of its banks that year.

Q- Was that the only one?

A- I do not know another. I cannot place any other year. There was a dry year about that time and I do not think the river

came out to any great extent.

Q- You said a moment ago that when the water came down formerly, during the early days from 1856 on, it came down with a smooth strong current inside of its banks. How does it come now? Make it as short as you can?

A- Very well. When the river rises, when the storms set in, in twenty four hours or forty, ~~eight thousand~~^{hours} at most, the river is rising. It comes down with impetuosity the waves roll five feet high it comes with a borent, and it comes on its surface trees logs, and other debris. I saw in 1868 rocks that were thrown out on the banks of the river just above my place, on Hollands place, and Spencer's place, that were as large as the crown of that hat.

not only one but many
 Such a thing as rocks on any
 of the soil was never seen there
 before that time.

Q- What is the condition of
 this strip of land between
 the levee here in Sacramento
 and the American river at
 this time, taking it generally
 without entering into details.

A- It is valueless for
 agriculture. Small portions of
 it are still cultivated, but
 the majority of it is being
 abandoned and is abandoned.

Q- And why?

A- On account of the debris
 and the poisonous sub-
 stance which covers it that
 kills vegetation.

Q- Can people live there in
 the winter time now?

A- They can by having
 boats. My house I have built
 is six and a half feet above
 the original soil where in
 1862 I could go out on the
 land and not come over my

boat tops. That is six and a half feet above the original sail. but last year by measurement the water came within eighteen inches of coming into my house.

To live there is very dangerous unless a man has a good ~~secure~~ place to live in.

Q - Has this rise in the river been an abrupt or a gradual rise? A - It has been a gradual rise; some years more than other years.

Q - How far up and down the bed of the river would you say it was filled sixteen feet? That is, that the bed of the river was filled sixteen feet with sand?

A - I am acquainted with the river from Mrs. Waldron's place to its mouth.

Q - How far is that?

A - Over three miles, ~~four~~ miles. I should say on an average it was filled that much from there.

Q How deep are the deposits along the banks of the river. on these lands you speak of averaging them?

A. I should think on an average three feet - you mean the river banks?

Q I mean the lands you speak of here -

A. How much of an average of covering?

Q yes. A. Oh. it is more than an average of that much. because those sloughs are filled up, it would be a cover of ~~four~~ or five feet.

Q Covered with what?

A. First with this material that came down in 1861-2

Q The material that came down in 1867-8 and later - what is it?

A. Sand, Clay and alluvial substance

Q The Country north of the American river which you de-

Scribe as having been a fine Agricultural Country occupied by Settlers - what is its Condition now? without entering into details state it briefly

A. It is nearly ruined ~~for~~ agricultural purposes.

Q Does any one live over there? A. Very few.

Q. Do you know where the Sands that Come down from the mountains go to after they are deposited in this Stream - any portion of them besides upon the land that you have spoken of?

A. They are carried into the Sacramento river and down the river and on the banks on either side

Q How do you know they are carried into the Sacramento river? A. I know it

by my observation. that where the Sacramento river was Once a deep flowing stream inside of deep banks. a sand bar has formed. from just

19
Below the mouth of the American river as it empties into the Sacramento River two thirds of the way across the Sacramento River and that it is same character of sand as it is above, that sand was not there in 1856.

Q. What is the Character of that sand?

A. It is a kind of white sand. Coarse white sand

Q Does it possess any adhesive qualities?

A. No. It is made up of granite and quartz. bits of quartz and granite and so on

Q. Did you ever see it moving in the water? A. Yes

Q. Where?

A. In the American river I have seen it drag along and move along and have seen the banks of sand drop into the water and so move along -

Q. How does it move? in large or small quantities?

20
 A. It Caves; the water
 undermines it and moves it
 along and it Caves down
 and then gradually it is drag
 ged down in low water. In
 high water we can not see
 so much of it! only can
 see it after the water goes down
 But in low water you can
 see it move.

Q Did you know the Sac
 ramento rivers at the same time?

A. Yes,

Q. What has been the effect
 on the Sacramento river, of these
 Sands being taken in there?

A. It has had the effect
 to fill up the bed of the river forming bars
 upon each side of the original channel of the
 Sacramento river. Q So you know how deep
 the Sacramento river was at
 the City of Sacramento in
 1856.

A. I do not. The
 water was muddy I only
 know what the apparent dis
 tance of the bank down to
 the water and from there up
 was. I know there were
 few large Steamers came

up the river.

Q. Do you know its two banks and their general character?

A. Yes.

Q. What were they?

A. They were high abrupt banks with Sycamores and other trees growing on the banks.

Q. How many years after you came here did the banks of the Sacramento river show that they were capable of carrying the water in the river if at any time - if they did so at all?

A. From the time I first became acquainted with the Sacramento river in 1836 from my own knowledge and by common report -

Mr Catlin you need not state common report

Mr Hart, do you know by your own observation -

A. When I passed up and down on the other side of the river I have seen the Sacramento come out in sloughs

722 running back into the tules -
That is the extent of the
overflow of the Sacramento
that I have seen? I have been
but very little acquainted over
there -

Q Are you speaking of the
river during ordinary or ex-
tremely wet seasons?

A. I am speaking of winter
season such as we had previous
to 1860. Since 1860. I know
that the river has overflowed
its banks very much. but
previous to that time, I never
knew of my own personal
knowledge of any serious over-
flow of the Sacramento -

Q you do not know from
measurement or otherwise how
much the bed of the Sacramento
river has been filled up
by sand & bars ^{excepting you have seen sand} which you have
~~seen~~ described? That is all is it
not, that you know about it

A. I know this: that for
merly there were large
Steamers

of is seventy rods

2- When you came here in 1856 you found the City surrounded by a levee did you not? A- Yes

2- That levee commenced on the bank of the old American river not far from where the Gas works were and follows that bank all the way around did it not?

A- Which levee do you have reference to.

2- The levee which you found when you came here?

A- I found two levees on the north of the City when I came here

2- You found two levees on the north bank?

A- Between Sacramento City and the American river there were two levees. One was built up a street and the other was built upon Vine street.

2- I am speaking of the American river, inquiring of you whether that followed the bank of the old American river

A- No

Q- How near to it did it go?

A- It cut the bank of the river down below 6th street. After coming to 6th street it struck there the slough and followed the bank of that slough in an North-east direction until it came to about 9th street. Then it struck the slough that runs parallel with the river and followed the bank of that slough in an easterly direction until it intersects it at 24th street and A.

Q- Was there any valuable land between that levee and the bank of the river?

A- Oh yes.

A- I will give it to you in a minute (reflecting) about four hundred acres. I can tell you exactly if you will give me time to figure it up. I will give you about the farms and about the amount in each farm that

that was inside of that and then still outside of this there was another tract of about six hundred acres more

2 - Outside of what?

A - Outside of the levee outside of those places; what is now the English ranch and the McLeay ranch, and the Johnson place. They are outside of all of that.

2 - Outside of the present levee?

A - Yes, they are outside of all this

2 - Where were these ranches you speak of? Where was the McLeay ranch?

A - The McLeay ranch was the bottom land - I will limit it and then you will know. It was between 15th street extended 16th st extended to the American river, Vine street on the south and the American river on the north, the tract containing about seventy acres

2- It lay between the old levee and the river?

A- Yes, it lay between the old levee and the river.

2- Was not that land subject to overflow.

A- That was more subject to overflow than the land inside because that was a lower piece. But still it was cultivated. There were good crops raised there every year. That soil was all cleared up and raised cabbage.

2- Was not that levee, that levee you found when you came here, much more than two feet high?

A- Not along by my house. I will explain what I mean by that. There were depressions ⁱⁿ the bank where the levee was high.

2- About how high?

A- At my house the levee was less than two feet.

2- I am not asking for your house

A- But there were sloughs there were low places, where the bank was not as high, that the levee probably might have been four feet.

Q- Then the sloughs were only about two feet deep?

A- Well, this was along the bank.

Q- But they crossed the sloughs you say? A- Yes. Let me explain to you so you will understand.

Q- I want you to understand my question?

A- And I want you to understand my answer.

Q- Answer my question. Was not that levee very much more than two feet high in many places? A- Yes.

Q- How high was it in the highest places?

A- I should judge in those depressions it might be four feet.

Q- Was it not higher than four feet in many other

places beside those depressing

A. I do not know but two or three of those depressions it was generally of this altitude

2. Was it more than two feet high from the American river up to 6th Street?

A. Not much more I said two feet.

2. From 6th Street to ^{Yammy} Rahels, was it not much more than two feet high?

A. Not much. It might possibly have been three

2. Was it not nearer six feet than it was two

A. Oh no, you could just step from the land up on the levee. It was thrown up with a shovel.

2. Now you say the bottom land was covered up three feet deep? A - Yes.

Oh! Yes on an average

2. And in some places five feet deep. Now where are those places situated which are covered from

from three to five feet deep

A- I average the covering of all of the land south of the American river, between the American river and Sacramento City - north of Sacramento City

Q- I can not understand when that is. Are these lands within the limit of this city with the streets extended?

A- Formerly a portion of it was but at the present time it is not. That portion of the City north of North B street was set off from the City

Q- Just come up here and point it out on the map. Do you understand that map?

A- Yes. Here are the lands [±], I speak of; here is where the levee was built on the land along here, here is North C St. There is North B St. This is the land I am speaking of in here along side of this levee

Q- Where did the old levee run

A- The old levee? Up

here.

I - Describe it so that the Reporter can get it down. Describe where the old American river levee commenced

A. About 6th and North K St. I should judge; I won't be certain. There it struck the levee. Now there was a slough that that ran down from here, which is not marked on that map. That levee was carried along here until it came to what we call Vine St. This is not the map of the city as laid out; I do not recognize that as the Map of Sacramento City as I have known it. There is a later map than that, which Vine street is laid out on. I do not recognize this map here where I see it.

I - This map was made in 1850, before you came there?

A. Yes. There is a street here called Vine Street, and

That levee was built from Vine Street and so on along up to the bank of the American river

Q. Now that island? When was that Island situated

A. South of the American river

Q. At a place, marked "arable land"? A. Yes

Q. That an island was formed by a slough? A. The

water was deeper between the island and the land

Q. That island was formed by a slough on one side and the American river on the other

A. Yes

Q. When the American river was at its high stage, the water would run around that?

A. I never saw the water run through that slough previous to 1861. The roads were filled up there then

Q. This island was overgrown with Cottonwood and willows as I understood you

A. A part of it. A part of it was cultivated, the first I knew of it. It has all been cultivated since

2. You saw it in 1856 for the first time? A. Yes.

2. It was then covered with a thick growth?

A. No, a portion of it was cleared up

2. Well, a portion of it was covered with a thick growth of willows and cotton-wood? A. Yes.

2. A portion of it had been cleared up and cultivated?

A. Yes

2. Does not that land generally, that grows cottonwood and willows rapidly and thickly produce well when it is cultivated?

A. Yes, that land produces very finely

2. Were not there cottonwood, and willows growing in other places around about here at that time?

A. Yes, that was the general rule

Q. Cottonwoods and willows on the lowlands around the margins of the river?

A. Yes, and on the higher portions, oak

Q. On the higher portions also?

A. On the higher portions, oak generally.

Q. On low portions near the river the growth was generally Cottonwood and willows?

A. Yes, principally willows, on this side of the river especially. On the north side was a growth of oak

Q. More of a growth of oak on the north side and more of a growth of cottonwoods and willows on this side?

A. Yes

Q. You say that the character of the sediment prior to 1867-8 was not particularly detrimental? A. No. The first debris that came down in 1862, the principal

part of was alluvial. There was some sand that came down at that time, which of course was not good: but the principal part of that deposit was good.

Q. The principal part of this material came from the mountains you say?

A. I said the debris came from the mountains.

Q. The sand: you said the sand came from the mountains?

A. I wish to make a correction if I said so.

Q. Very well.

A. If I remember correctly I was asked where this debris came from, and I said from the mountains. The question was asked me if I had seen any of this material this side of the mountains, and I said no.

Q. You did not mean to be understood as saying this came direct from the mountains?

A. I say now it did. It did come from the mountains.

Q. I just understood you to state it did not?

A. I did correct you as far as my former answer was concerned. I now say it did come from the mountains.

Q. Just answer my question. I am asking this distinct question. Did you not state on direct examination that you knew the sand came from the mountains? A. No, but I state it now.

Q. Oh, you do state that you now mean to say so.

A. The question was not put to me in the direct examination.

Q. Well, I put it to you now?

A. Yes, it came from the mountains because it was accompanied with a clay that I know. I am generally acquainted with the country between here and the mountains on the American river.

It was generally accompa-
 nied with a clay that we do
 not find anywhere else Ex-
 cept in the mountains, and
 I have seen plenty of it there.

Q. It comes from the moun-
 tains you know, because the
 clay that accompanies the
 sand comes from the moun-
 tains?

A. Yes, they both come
 down the same river and in
 the same manner.

Q. Might not a large portion
 of this sand have come
 from the alluvial bottoms
 of the American river at
 a point ten miles above here
 or fifteen miles above here?

A. Very likely.

Q. Those are not points in
 the mountains are they?

A. There is but little of
 it comes before we get into
 the foothills.

Q. Do you know where
 Mississippi Bar is?

A. Yes.

Q. May not a large portion of this sand have come from Mississippi Bar?

A. Some of it no doubt.

Q. And a large portion of it from the lands bordering on the south side of the American river commencing at a point ten miles above here and extending to a point twenty miles above here?

A. Not a very great quantity in comparison with the amount that is here.

Q. Suppose there was a tract of land commencing at a point ten miles above this city and extending above three hundred acres in extent, where from the bottom land, sandy soil had been washed off by the floods of 1862, to the depth of eight feet into the river, may not some of that sand be left now in the bed of the river and on the banks of the river here?

A. That soil is not compressed

very greatly of sand

2. Which soil is not?

A. The soil within ten miles of this City, or fifteen

2. You are well acquainted with the soil, on any of those ranches up there above the old Paterson house?

A. Oh yes, I am acquainted with every man up there and his farm and know the character of the land

2. There is no sandy loam?

A. Yes, there is sandy loam along there on the river.

2. Very well, suppose three hundred acres of sandy loam had been washed off along that river, would not that show sand below and would not the loam float off to a greater distance in suspension with the moving water?

A. No doubt it would make a showing here - that much

2. How do you know this clay comes from the mountains? Do you know there is clay, or

or suppose there is clay in the mountains?

A. I know there is clay in the mountains

Q. Whereabouts?

A. In various places. I have been in the mines, lived there for eighteen months and had dealings with the miners.

Q. What years were those when you were in the mountains for eighteen months?

A. I came here in 1855, went down to the mountains and came back in 1856 in the fall

Q. Whereabouts in the mountains did you mine?

A. I was in El Dorado County and Placer County

Q. In what part of Placer County were you mining?

A. Do you know where Iowa hill is?

Q. Yes. A. I was there and at Yankee Jim's and that section

Q. Now you say there is a substance there that you

call a pipe clay, that comes down?
A. Yes

2. Is that very largely deposited over the lands?

A. Not very much where I am. There is not a quantity of that as there is of the other

2. Not where you are but where you are acquainted?

A. In our section there is not a great quantity of that pipe clay even

2. Then there is another kind which is of a darker color?

A. Yes.

2. Is there much of that?

A. Well, there is more of it

2. Do you know what is ordinarily called shikens?

A. Well I have heard that term I suppose. I only know from what I have heard in regard to the matter. As applied I take it it means this porous substance which comes from the mines this white clay, this porous

Kind of material, whatever it is

2. Is there any of that poisonous substance?

A. Some - Yes - We have

2. Could you readily produce some of it here?

A - Yes, I will bring some here tomorrow. I will bring some of the clay, some of the soil, and some of the sand

2. Some of that substance which you call poisonous?

A. Yes

2. You have made a close examination of this material I suppose, which you call poisonous. What is there in it which makes it poisonous, what substance?

A. I have made not analysis. I only know it from its effects

2. Why do you call it poisonous?

A. Because where it is on the soil, where it comes and mixes with the soil, it kills vegetation and ~~vegetation~~ will

not grow.

2. You do not literally mean that it contains any poisonous substance? You merely mean that it is barren and will not produce.

A. I mean that from its Effect on the soil it will kill vegetation, vegetation will not grow.

2. Where plowed into the soil and mixed with the other soil is this poisonous Effect produced?

A. It is to a great Extent

2. Have you any of that poisonous substance on your place?

A. Why yes, I told you I would bring you some tomorrow

2. Have you ever cultivated any of it? A. Oh yes, I have cultivated my ground continuously, we raised no crop this year on that land

2. You say it produced very good crops until about four years ago

A. I said I could produce paying crops, but they were not as good of course, but since then I have not.

2. Paying crops are very good crops are they not?

A. Well yes, they pay more than expenses.

2. Was there any of this porous substance that you speak of here, white clay and the darker substance resembling clay, on your land prior to before four years ago?

A. I never noticed any of that prior to four years ago I noticed it more distinctly about four years ago, and noticing it my attention was drawn to it and I thought it came more from up in that direction.

2. Do you know where Lanes' lands are? A. Yes.

2. Those bottom lands there?

A. Yes.

2. Are they covered with this debris?

A. To a great Extent — Considerably

2. How deep?

A. I do not know; I could not tell us regards to that. I was very well acquainted with his orchard when he lived there. I have been there few times since.

2. You have never been there but few times since?

A. I have been up there occasionally; and where his orchard was and his farm it has grown up to brush. There is but very little of it cultivated. The Chinamen undertook to cultivate it for a few years but it is now abandoned.

2. Is not that land cultivated now and rented for from twelve to fifteen dollars an acre per annum?

A. There are places up there that are; but a good many of those places are entirely abandoned

2. Is there not a large tract occupied, that is rented for twelve dollars a year an acre?

A. That hopland up there they get twenty dollars an acre for, but it is not very extensive. Most of that land has been abandoned. That was formerly occupied down this way.

2. Is there not a large part of this land that is occupied every year for vegetables there?

A. On the river?

2. Yes, on the right side of the river within a short distance of where you live? within two or three miles?

A. Locate the place

2. On the other side of the river within two or three miles of where you reside. The north bank of the American river on the bottom lands?

A. There is no land cultivated

on the American river
from the Railroad bridge to
Lisle's bridge on that side,
to amount to any thing. Now
above Lisle's bridge there is
a long stretch of country
there up to James place
that I have not seen anybody
cultivating any land in

Q. Have you been there much?

A. I was up there this summer,
I am not there very frequently.

Q. Were you up there this sum-
mer and did not see any cul-
tivation there?

A. I was along there this summer

Q. And you did not see vege-
tables of all description, growing
there?

A. No. Once in a while there
was a little patch

Q. Were you up there where
they were growing hops?

A. Yes

Q. Are not hops very exten-
sively grown there?

A. Yes, while they are exten-
sively grown, their former

fields below have been abandoned

2. I am not asking about former fields, but asking if there are not extensive fields of hops there?

A. Yes, good hops raised there

2. And quite a large number of persons engaged in that business?

A. Yes, that is, about four miles above my house

2. Is not this willow grove utilized for hop poles?

A. Yes, some of it.

2. How many willows do you suppose have been cut for hop poles this season?

A. On the Morris grant?

2. Yes. A. There is an extensive country there. I could not be surprised if 50,000, there

2. That land is covered to some extent with debris?

A. Yes, it is

2. And that is debris that has come on it since 1862

is it not?

A. Most of the debris there on that side of the river has come in since 1868. The 1862 flood did not carry much of the debris on that part of the river.

Q. My question was: And that is debris that has come on it since 1862 is it not?

Mr Hart He says since 1868.

A. I answer yes.

Q. And the greater part of it since 1868? Most of it, all of it, since 1862, and the greater part since 1868

A yes

Q - It is cultivated now isn't it?

A - No

Q - Was it cultivated this last summer, a piece

A - Oh, up there yes

Q - I am speaking of that hop land? A - Yes Sir

Q - It has been cultivated for a good many years back for the same purpose, hops hasn't it? H - Yes.

Q - Now you say the carrying capacity of the American river is diminished?

A - Yes Sir.

Q - Does it carry now about the same amount of water at low water that it formerly did?

A - At low water all the water goes down the bed in low water

Q - I say its capacity for carrying, the river in low water is equal to what it always was?

A - Oh yes, its capacity for carrying the water at low water.

Q - You mean then at high

water in consequence of its being filled up in a measure its carrying capacity is reduced that is what you mean by its carrying capacity?

A - Yes Sir it causes the water to rise and flow over the adjoining lands.

Q - You said you saw the debris in the ~~lands~~ bushes and trees as high as where you were sitting in your wagon?

A - The straw and tule.

Q - The straw and loose stuff that floats on the water?

A - That comes down from those places, straw & sticks

Q - Has it that same land been overflowed as high as that since 1849?

A - I think not, not to my knowledge, Not to my knowledge. I will answer

Q - You only know that it has not been overflowed since you have been on this Coast

Since 1856?

A- Yes Sir.

Q- Is it there plenty of evidence in the way of lodgment of trees on the bank of the river in that neighborhood to show that before that time the water had been up to that height?

A- Not of that character. I never saw anything in the trees that indicated any such high water.

Q- You never saw it?

A- No Sir.

Q- Now you say this sand is composed of granite and quartz?

A- It has the appearance of that. I say it has the appearance of it. It is a kind of a white sand, quartz and fine grained granite. I know what we call granite. I know what we call quartz. It has that appearance.

Q- Did you ever make an analysis of this sand so that you can determine whether

it is composed of granite and quartz or not?

A - I never made any analysis of it.

Q - You merely judge so from its general appearance?

A - Yes Sir.

Re-direct Examination
of
A. A. Greenlaw

Mr. Hart - Q - Mr. Greenlaw you were examined by Mr. Patton about the hop ranch how far it is above the land about which I examined you before

A - It is two miles

Q - Two miles above?

A - Yes Sir perhaps three.

Q - What is the nature of the country through which the river runs as it goes up through that place?

(Objected to as not proper re-direct examination)

Mr. Hart - You have "hopped"
 clear off the examination in
 chief and examined about
 about a thing that my exam-
 ination had no reference to.
 Now I am going to undertake
 to establish that it is ~~true~~ and
 the reason why it is true, that
 they can cultivate, that this
 river runs on an incline
 gradually rising. I think
 that it rises thirty five feet, or
 nearly fifty feet in altitude
 in the seven miles, between
 its mouth and the first seven
 miles. I think we can
 establish by actual meas-
 urement that it is very
 much higher in altitude
 there than it is down here,
 and the examination which
 he makes in relation to the
 hop ranch up there producing
 is no evidence at all that it
 will produce down here in
 a much lower place.
 My idea is to examine and
 show that the river rises

Mr. Battin - If you can prove that the river has a fall of thirty five feet in that distance I withdraw my objection. I don't think you can prove that by this witness or any other.

The Court - Proceed then, I demand.
Mr. Heart - 2 - What kind of a country does this run through?

A - What kind of a country?
 2 - Yes. That is after you leave the place that I have - I mean to say all the way up?

A - It runs through -
 2 - (Ints) I mean what is the nature of the Country whether hallow or level

A - Back from the river across this bottom land on the north side it is rolling hills

2 - How is it up there at the hop ranch?

A - Well the hills common there, small rolling hills.

2 - What was the difference

in altitude, if you know

Mr. Lattin - 2 - You say the
hop ranch is on the rolling
hills?

A - No I say
the adjoining high lands.

Mr. Hart - 2 - What is the
difference in altitude if you
know between the City of
Sacramento, the river at
Sacramento and the river at
the hop ranch?

A - I can ~~only~~ say as I
have heard it reported.

2 - You don't know!

A - I don't know from my
own measurements, No Sir

2 - Do you know whether
in fact it constantly rises?

A - I know in fact it does.

2 - Where is the hop ranch
located?

A - North of the American
river four miles above Lisle's
bridge.

2 - How far from the
American river?

A - Not very far, perhaps, I
don't know but some of

those ranches extend to the head of the river.

Q - But this top ranch, I speak of the top ranch?

A - Well, there are several top ranches there.

Q - Some of them are not near the river and some of them are?

A - Well not so near. Mr. Leamp has a place there and Mr. Wittenbrock (?) Mr. French (?) and Mr. Mahan (?)

Q - What is the difference in the character of the soil up there and the soil down here as to being subject to ~~inundation~~ ^{inundation} and overflow?

A - Well, I have not visited the country during the high water; I never was up there during very high water. I know this; that as you go up the river the water falls off of the land much quicker than it does at my place.

Q - What is the difference

in the amount of these deposits on these hop ranches and these lands down here?

A - That I could not say.

Q - Is there any deposit up there?

A - I have noticed that land as being fine alluvial soil, dark soil.

Q - When did you notice it?

A - I was in some of them last summer.

Q - Did you see any sand there?

A - No coarse sand, no Sir.

Q - You say that there was a levee here which you say runs around near the American river, two feet in height in 1856?

A - Yes Sir.

Q - What is the height of that levee now?

A - That levee is covered up.

Q - What is the height of the levee now protecting the City in front of the City?

R- That is the railroad
levee?

Q- Yes Sir

A- I cannot give the
number of feet

Q- Well about what is
its height?

A- I should
think it was nine feet, I could
not say

Q- Do you know how near
the water now comes to the
top of that levee?

A- I should think fast water
it came within two feet and
a half. There is exact measure-
ments in regard to that. I could
not say exactly. I should
judge two feet and a half or
three feet. The levee had been
raised. A few years ago
in 1867 and '8 at Brighton
the water was at the top
of the levee, in fact they
placed boards on it edge-
ways, but the levee has
been raised since that.

Rudolf Wittenbrock, being duly sworn on behalf of the plaintiff, testified as follows:-

Mr. Cadwalader - 2 - Mr. Wittenbrock where do you reside?

A - At Sacramento

2 - How long have you been in the State of California?

A - Since 1853

2 - 1853? A - Yes.

2 - Were you ever engaged in farming on the American river?

A - Yes I am now

2 - How long have you been engaged there in that business?

A - About fourteen years

2 - That would go back to 1867

A - Yes.

2 - Where are you farming?

A - On the American river, I am hop raising

2 - Whereabouts?

A - Four or five miles above Lisle's Bridge. 2 - On the El Paso rancho?

A - Yes

2 - Are you still engaged in that business there?

A - Yes

2 - In the same business?

A - That same business

2 - Had you been on the American river as early as 1853

A - I crossed the American river in 1853 frequently with a team; I had cattle on the other side.

2 - How often did you cross it?

A - I do not recollect; I used to go back and forth to town.

2 - Where from?

A - From the other side from the north side of the American river coming ~~down~~ to town

2 - Where were you living there?

A - We camped at what is called the Teamsters home with our stock

2 - How long did you camp there

A - Pretty near three months about three months

2 - What was the condition

of the river then?

A- Well it was clear; I could see the bottom of the river as I crossed on the wagon I could see the bottom of it.

2- How high were the banks

A- I could not tell how high the banks were

2- Were the banks timbered

A- Yes

2- What section of the American river did you become familiar with as early as 1833?

A- I did not notice at all, 1853 or 1835- I was speaking of living over on the other side and I would go backward and forward but I never took much notice. We could ford the river there.

2- You could ford the river where?

A- Right up where the bridge is now the 12th street bridge

2- Where, what is called the old mile^{1/2} bridge; is?

A- Yes

2- Were you there in 1835-

A - Yes, I lived over there since 1835 - except the last eight years

2 - Where did you settle in 1835?

A - On Dry Creek; I lived on Dry Creek four miles from the river; on the north of the river.

2 - How long did you live there

A - About seventeen years

2 - When did you move on to this hop-ranch

A - Well I run the hop-ranch there ⁱⁿ 1867 and lived on Dry Creek at the same time; I commenced it in 1867.

2 - How far off was Dry Creek from that Hop-ranch

A - Four or five miles

2 - How much land did you cultivate in hops

A - 25 or 30 acres

2 - Where was it on the river

A - About on the river bank the bottom land there

2 - You started that hop-ranch in 1867 did you?

A - Yes

2 - When did you first begin to notice bars forming in the American river?

A - I noticed them in '88 or '89 or in 80 (?). I first took notice of the bar that was formed opposite my yard right across.

2 - That was in the river

A - Yes

2 - Did you notice any changes in the current - in the bank

A - Yes the current came over to our side and washed the banks away.

2 - How much?

A - Well forty rods; it ~~has~~ has ~~not~~ washed away forty rods now

2 - Forty rods in towards your hop-ranch?

A - Yes

2 - And formed a bar on the other side?

A - Yes on the other side a great big bar.

2 - Do you know of any hop ranches being washed away and the place being occupied

by sand bars?

A- Yes.

2- What one?

A- Johnnie Mahin was washed out and Mr. Neal's place and my brother's three of them. Part of my brother's is ~~still~~ ^{is} ~~entirely~~ ^{entirely} still by Chinamen after the water is down.

2- When did the washing away of these hop-ranches occur?

A- In the last three or four years.

2- What occupies their places now?

A- Mostly sand, and some places some sediment, but mostly sand.

2- What kind of sand?

A- What sand, fine sand.

2- How many acres were washed away on those three hop-ranches that you spoke of?

A- Well I believe there are seventy five or one hundred acres in the three parts.

2- They are now sand-bars.

A- Yes most of ~~them~~ ^{it} is, the biggest portion. A few acres the

chinamen cultivate now late after the water is ~~g~~ down, they could not raise any more hops, the hops would not grow and they have moved out

2- Would anything grow on that sand?

A- No sir

2- What effect does the wind have on it?

A- It makes a great dust there and if we do not get out of the way of it we get our eyes full of sand

2- Is the whole seventy five acres in this condition

A- No sir, the lower portion of it. There are a few acres that the chinaman occupies that is a kind of a sediment and some of it gone to willows

2- State what you know about any sand-bar formed in the river and state the size of them and describe them.

A- This one opposite our place I suppose. there is over one hundred acres of it

and the water has run over on to our side and it seems to be level on the other side. I have not been over there but it looks like it was level and between there and there and the Trestle work there are several large bars with over a hundred acres in them.

Q - When did this occur?

A - It occurred in the last few years.

Q - In the last five years?

A - Yes inside of the last five years.

Q - That is about six mile above here on the American river?

A - Yes from four to six miles from the bridge up.

Q - How far is it from the bridge to the mouth of the river?

A - I do not know.

Q - Do you know anything about the fill in the bed of the American river since you first saw it?

A - Well it has been filled in considerable since I first saw it.

2 - You first saw it in 1853
did not you?

A - Yes

2 - How much was it
filled in since you first saw
it?

A - I should think ten feet

2 - What has it filled with?

A - I never examined it; it
looks like sand

2 - Fine white sand?

A - A kind of sand

2 - Speaking of these sand
bars - these sand bars that are
formed in the American river, how
did they compare in height -
how do some of them compare
in height with the banks of
the river?

A - Well there is one
big bar right above the trestle
work of the Railroad company
there which is some places
within a foot or two on a level
with the old bank where the
bank used to be and some places
it is two or three feet higher
than others

2 - That would be apparent to anybody who would go out there

A - Yes.

2 - When that ~~the~~ bar formed?

A - That was formed there in the last few years; in the last four or five years.

2 - You say that these bars are formed with sand and that they shifted backward and forward?

A - It will raise a dust like but they do not shift the bars don't ^{much} because they are too large

2 - What is the difference in the condition of the land as a general thing on the north bank of the American river, now and when you first saw it in 1853, 1854 and 1855 - so far as the people living there and the land being cultivated is concerned.

A - Well now most of that land ain't worth anything. It is not fit for cultivation at least and when I first seen it it was good farming land and you could raise corn and pumpkins on it and where I am now almost plum

down to the bridge where I was more acquainted.

2 - Land that will raise corn is considered first class land isn't it

A - yes

2 - That is recognized as so the world over isn't it?

A - yes

2 - This land that did raise corn was on the river margin

A - I have seen a good deal of it there

2 - Were these lands in a state of cultivation when you first knew them?

A - yes; That is the bottom land

2 - What is their condition now.

A - Well it is sand and brush and willows and blackberry bushes and cotton trees

2 - Is there any cultivation

A - No sir there is some little of it cultivated

2 - To what extent has that land been depreciated, in value for agricultural purposes, by the cause you have mentioned, the overflow of the muddy water and

land over it? How much has it depreciated in value for agricultural purposes?

Mr. Catlin - State what particular land you are drawing the attention of the witness to you say "this land"

Mr. Cadwalader - I refer to the northern side of the American river from its mouth about six miles up stream?

A - When I first came there and saw that land, if it was now like it was then it would be worth from 150 to 200 dollars an acre but the way it is now it is hardly worth anything, unless it is for what shrubbery grows on it and Willows

Q - Is there a heavy growth of this worthless timber on it or are they just willow and cotton wood timber?

A - Yes on parts of it

Q - State whether or not a large part of it has been turned into thickets

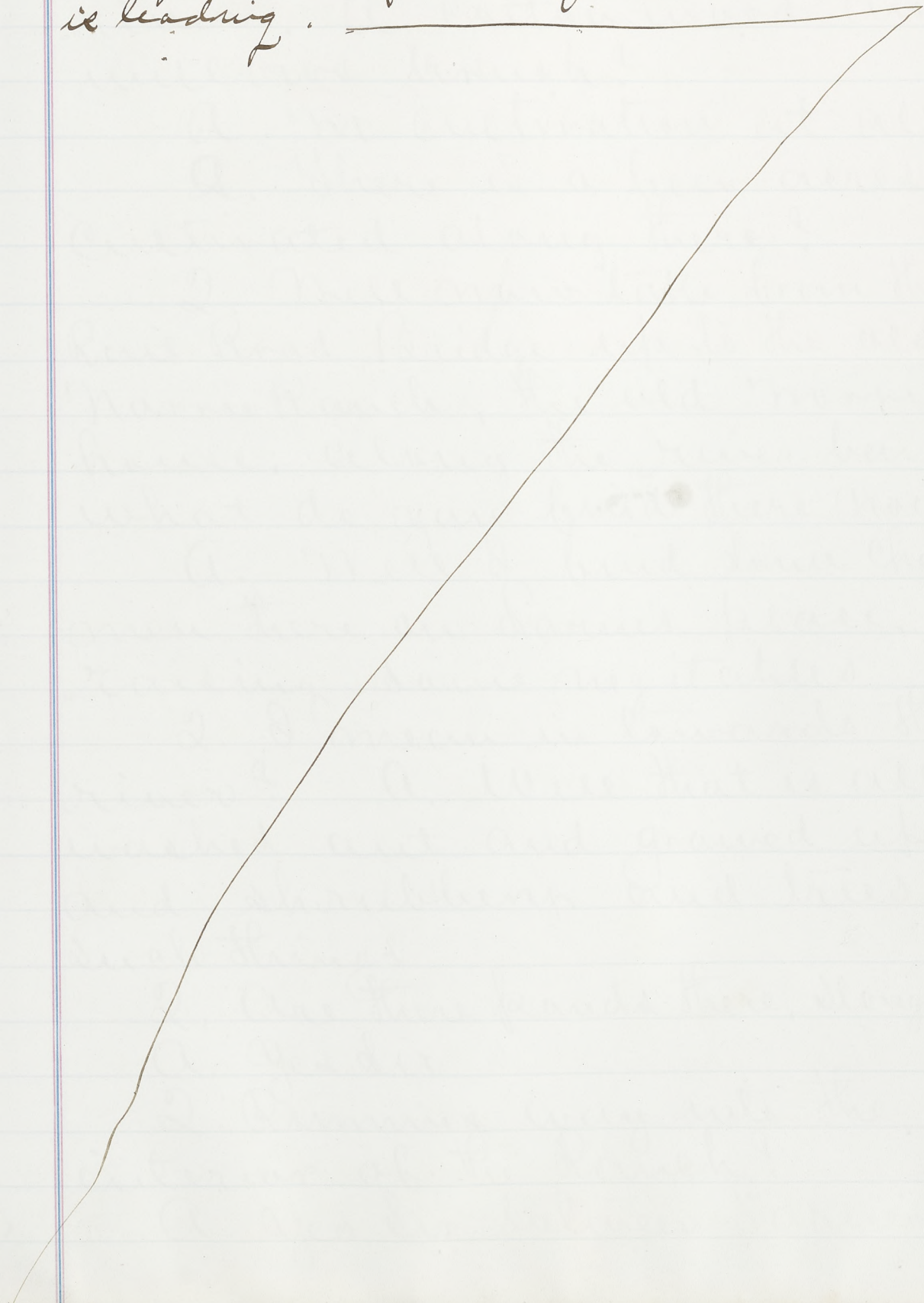
A - Well a good part of it

Q - It is in one thicket?

A - ~~It~~ - In some places it is

so thick that a person can not
get through it

2 - It is in one thickset isn't it -
Mr. Cathie {interrupting} I object to
the question upon the ground that it
is leading.



Mr lead valader. 2. Take the piece of land from Lisle's Bridge to the rail road bridge what is its condition now for timber on the banks of the river. A cotton wood and willows brush?

A. No cultivation at all

Q. There is a few acres cultivated along there?

2. Will now take from the Rail Road Bridge up to the old Morris Ranch, the old Morris house, along the river bank what do you find there now?

A. Well I find some China men there on Sam's place raising some vegetables

2. I mean in towards the river? A. Well that is all washed out and graded up and shrubbery and trees and such things

2. Are there ponds there, sloughs

A. Yes Sir

2. Running way into the interior of the Ranch?

A. Yes Sir between Sam's

and the river

Mr Catlin. You say the ponds there run away into the interior of the ranch?

Mr Cadwalader. Yes.

Mr Catlin. What ranch?

A. Larnes. Back of Larnes.

Mr Cadwalader. Q Will now continue up until you get ^{to} through the Hop Ranch above the River how is it for thickets?

A. Well it is about the same right along, cottonwoods, black berry bushes, driftwood and sand hills

Q Until you get to where you cultivated your hop barn?

A. Yes sir.

Q How is it on the other side of the river?

A. I don't know I have never been over there.

Q What change in the condition of the water if any; have you noticed any change in the condition of the water in late years?

A. What do you mean change

in the river

Q Change in the river, Change in the water of the river?

A. Well it is a good deal muddier than it used to be

Q Is it getting better or worse?

A. Well I cant see any difference in the last few years. It looks about the same to me.

Q What condition has it been in. A- Well it has been very muddy as a general thing.

Q Fit for what? A. I dont know. It is not fit to drink because I tried it several times

Q Did I understand you to say that for the last three years it could not be used for drinking purposes.

A. Well they might drink it. I drank some of it plenty of times and I got plenty of sand in my teeth when I was drinking it. There is lots of sand in it

Q How does it look when the water is high?

A. It looks muddy like

a mud puddle

Q. How much of the Country on the north bank would the river cover when it is up?

A. Oh it covers plumb to the bluffs. I dont know how much land there is in it. Plumb on the hills. the red land

Q. It runs clear back to the red land? A. Yes Sir

Q. How deep does it become?

A. Six or eight feet

Q. Any strong current in there. A. Oh yes strong.

Q. Any water courses?

A. Well when the river is up pretty well it runs over the banks where it had been washed out: it is very low right below our hop yard.

Q. Is much of that land washed. A. Yes considerable of it washed. It is over 40 rods nearer to my hop yard now than it was when I first came there

Q. Do you know a road that formerly ran up the American

river past the old Harris ranch, what is called river road? A. I do not.

Q. How do you get to your hop land at high water?

A. We go around. We cross the rail road track upon the high ground.

Q. There used to be a road nearer the river?

A. Well there is now when the water is down; when the water is down this time of year we go through the willows right straight up.

Q. That is the old traveled road. A. No, that has been made there since we have been raising crops up in there.

Q. They may have travelled it before? A. Yes there used to be a road there part of the way.

Q. You say you cant use that road at all in high water? A. No, I guess they can hardly use it now.

Q. State how deep the water was in that river last winter?

A. I don't know. As a general thing when the water is up it is from 6 to 8 feet in the bottom.

Q. How long did it stay there?

A. Well with us there it don't stay maybe over twenty four hours. Maybe down below it is longer.

Q. Well down say about Sible bridge between Sibles bridge and the rail road bridge.

A. Well that stays I don't know how long it stays, but it stays longer than it does with us. Then there is a slough makes through there that always runs pretty near all the time.

Q. When you first went there did you have any trouble in cultivating your land by reason of overflow?

A. No sir

Q. The trouble has all come in late years

A -

A - In late

years yes sir

Q Have you noticed any difference in the character of the sand? A. No I have not

Q Coming down stream in late years? A. No sir

Q How wide is the channel now opposite your ranch?

A. Well I could not tell. It is probably three or four rods where the water is low now.

Q I mean how broad is it from bank to bank?

A. Oh it must be a mile about a mile from bank to bank now. That is over the sand bar.

Q Yes over the sand bar? How wide used it to be? When your first went there?

A. I could not tell. I never noticed its form. The first year I never took no notice

Q Have you been between Liles Bridge and the Sacramento River. A - yes, I have traveled over that road a good deal.

Q. How lately?

A. Well, I have been a month or two ago and all along occasionally.

Q. Well there was a road leading from Lisle's bridge?

Mr. Catlin I object to the question. Let him describe what roads there were there.

Mr. Cadwalader Q. Well I will ask you what roads there are connecting Lisle's bridge on the northern end of Lisle's bridge with the Sacramento river.

A. — Well there used to be two roads one from 20th Street and one from 12th Street.

Q. I mean on the other side of the river.

A. Well there was the Marysville road.

Q. I mean a road from the end of Lisle's bridge down to the Sacramento river?

A. Well that is out about a mile from the river. A mile from the river there is a road

beyond Judge Coombs ranch

Q I mean from the other end of Siles bridge going down to Bannons house on the American River?

A - That is the only road they can go. They may go part way on this other road up the river banks

Q That road is still there?

A. To go around to Bannons, yes. I have not been on the river as you go on the left hand side, I dont know nothing about the road no further than where I think place is

Q What effect have these overflows had on those roads to your knowledge?

A. Well they have washed them out and in places deposited sand.

Q How long does the water stand over them. A. Well beyond the bridge it stands over a month or two sometimes

Q. Between Siles bridge and the river
A. Siles bridge and up to high ground levee ground it runs through there.

Cross Examination
Of
Rudolph Wittenbrock
By Mr Caltin

Q Didnt the water flow over those roads in the big flood of 1852-3? A. I guess so I didnt go down to see I lived then about four miles from the river

Q You know that whole bottom land was overflowed?

A. yes sir.

Q all that land where you are now raising crops was overflowed was it not?

A. Well Sometimes. when there was a big water.

Q when there is big water it always comes over the land where you are now raising hops when you have what you call a big freshet? A. It dont need to be very big now It comes right back, right on it. where the river has been washed out, the melting of the snow will fetch it on

us now without a big rain.

Q Well, I say it overflows frequently? A. Yes.

Q Do you still Cultivate your hops there every season after the overflow has gone away-? A. Yes sir. I have so far.

Q. Do you own this hop land or have you rented it?

A. I rent it.

Q. What rental do you pay per annum, per acre?

A. Twenty dollars.

Q. Twenty dollars an acre per annum? A. Yes sir.

Q. Is there not a heavy growth of willows on the deposits above the bridge. between the bridge and the hop land that you are cultivating? A. Yes. there is

Q where they get there hop poles? A. In places, in spots.

Q How many hop poles have been cut there this summer for use? A. I think about 60,000 or 65,000.

Q what are those hop poles.

worth a piece? A. 5 Cents.

Mr Hart. Well that is irrelevant I think.

Mr Catlin Q. this land that you occupy and Cultivate as hip land is a level bottom land. is it not? A. yes sir.

Q How much, if any, is it higher than the bottom lands around in the neighborhood of the bridge? A. How much higher?

Q. yes. A. I could not tell

Q. Well. isn't it about the same length? A. It will overflow below sooner than it will where I am.

Q That is because the water backs up from the Sacramento river. doesn't it?

A. No. the running down water will without it run over the banks below us

Q. First? A. yes... Then backs on us.

Q But how much higher is your land than that Mr Greenlaw occupies?

A. I cant tell. I never

Surveyed it.

Q And Mr Babcock?

A. I could not tell I could not guess at it I have no idea.

Q you can guess at it Cant you? A. No sir. I cannot.

Q. Is it more than two feet higher? A. I cannot tell it is some higher. but how much. I cant tell.

Q you guessed at the width of the river opposite this place and you guessed it to be a mile wide? A. Yes.

Q Dont you think you guessed it a good deal out of the way? A. No. I can see that point. I dont know how big a slope there is from my place down but I can see.

Q you say the bank of the river as it now is opposite your place is a mile wide? A. yes sir. That is what I saw.

Q. That the river is a mile

Wide? A. That is what I believe it is. It looks like it.

Q You Can see for a mile?

A. From the bank where I am raising hips. to the willows which is supposed is the bank on the other side. I have not been over it. I think that is a mile across.

Q Where you supposed the bank to be? A. Yes.

Q Hadnt the river banks washed away there before 1868, in a good many places?

A. Which.

Q The banks of the river washed away on one side and formed bars on the other before 1868? A. Well. there is at least 40 rod-

Q [Intg] Well. I say when that washing first commenced?

A. Well it washed some right along when I first noticed the bars forming in the river it washed some every year washed some last year

Q From the time you first became acquainted with it ?

A Yes Sir.

Q When you first knew these lands you are on who was cultivating them ? A. Well there was my brother. myself. and a man by the name of Neal, that is raising hys.

Q No. but when you first knew the land, was that the first time you had any knowledge of it ?

A. No. No. I used to have stock over there. I had a dairy and used to ride all over them everywhere. hunting Cattle.

Q. These lands. which you are speaking of where you have your stock and dairy, these are the low bottom lands on the Norris ranch ?

A. Yes.

Q. Right back of that there is a bluff ? A. Yes. Red land

Q. How high a bluff -

A. Eight and ten feet. a gradual

Slope.

Q. a gradual Slope to what you call the red land?

A. yes Sir.

Q. what extent is there of that bottom on the Norris ranch? How many thousand acres?

A. Well. I should think from my place down that there was four and five hundred acres.

Q. I mean North and South of the river both?

A. Well. I don't know nothing much about the south of the river, the South Side -

Q. you said North, I understood you were estimating what was south of you.

A. The north side of the river is what I was talking about.

Q. Now then. I am asking you for the bottom lands on the Norris grant. The Norris grant lies on the other side of the American River?

A. From where? from the top of the grant or from below

Q All the bottom lands that there ~~are~~ on the river front of that grant how much of it is There? A. Well, I should think there would be a couple of thousand acres.

Q. Well, how much of that 2000 acres has been cut away and destroyed - injured by the floods? A. Well five or six hundred acres.

Q as much as that?

A. I think so.

Q In that estimate do you count the land that you are cultivating tops on?

A. I don't include mine yet. But I probably will another year -

Q. Then you are anticipating.

A. I am looking for it every day -

Q Testifying as to the future as well as the past?

A. I am looking for it to clean me out.

Q. Now you said there were ponds there that ran

into the interior of the ranch
what ponds are those?

A. There is a pond called
the Brushy lake right back
of Larues place I was there
yesterday.

Q. Was Brushy lake there
when you first came to the
Country? A. It was there
as long as I have been
here I noticed it.

Q. Doesnt it have the
appearance of having been
there a great many years?

A. Oh, yes, it looks like
it had been there a great
many years.

Q. Then that was not caused
by any of the floods?

A. Well, I dont know

Q. It was not caused
by any of the floods that
have occurred since you
have been here?

A. Not that I know of

Q. When did you last make
a Contract to rent that land?

A. I used to run it by

the year. from one year to another. then we supposed the first of October our year was up.

Q You rented it from October to October?

A Yes Sir.

Q And you have now rented it from October until next October? A Yes Sir.

Q If it should be washed away next winter you will —

A. [Intz] Be out and injured.

Q If you seriously apprehended any such difficulty you would not have given \$20. an acre for it. would you?

A. No. I would not if I was not established there and had spent four or five thousand dollars for a hop house and outhouses and poles and everything else.

Q. Well. if you had four or five thousand dollars invested and you seriously apprehended that your land

would be destroyed this next winter you would only add to your misfortunes by agreeing to pay \$20. an acre. wouldn't you? A Well. I would take Chances on that.

Q Will you Consider the Chances are pretty good for raising a crop there next year. dont you? A. yes if the water dont wash me out. there is a good Chance to raise a crop of h ps.

Q you Consider the Chances are pretty good if the water does wash you out. dont you?

A Well. I Cant say.

Q. was there any other place where you could ford the river where you were in the habit of fording the river when you were in the stock business over there. besides this one place? A. yes sir I forded it lots of times up as patersons crossed there with a whole train—

Q Forged the river four miles above there? A yes Sir. at pattersons old place we used to ford it there in 1853 and 1854 with a whole train.

Q Havnt. you forged it below Lilles bridge?

A. No Sir.

Q Havent you forged it at places between Lilles bridge and pattersons?

A No Sir

Q Wasnt there a good many places where you could have forged if you had wanted to?

A. Well I didnt try. I knew them fords and I didnt try any others.

Q You dont know but you may have forged it at other places? A. It might be I didnt try.

— II —

Here the Court adjourned
until tomorrow morning at
9.30 O'clock

— 3 —

